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CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Notification

The 16th February, 2023

No. LD-2023/1873.—In exercise of the powers conferred by sub-section (3) of Section 3 of the National Security Act, 1980, the Administrator, Union Territory, Chandigarh, hereby directs, the District Magistrate, Chandigarh, to make orders, directing any person to be detained under the said Act, with a view to preventing him/her from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to maintenance of supplies and services essential to the community.

This Notification shall remain in force for a period of three months, with effect from 26.02.2023.

DHARAM PAL, I.A.S.,
Adviser to the Administrator,
Union Territory, Chandigarh.

CHANDIGARH ADMINISTRATION
ESTATE OFFICE, U.T., CHANDIGARH

ORDER

The 13th February, 2023

No. 1/9310/2023/2292/EA-IV.—In Supersession of all orders issued by this office in connection with composition of Internal Complaint Committee Sexual Harassment of Women at workplace (Prevention Prohibition and Redressal) Act, 2013, the Internal Complaint Committee is hereby reconstituted as under to redress the grievances of working women on their complaints of sexual harassment in work place in respect of the Estate Office, U.T., Chandigarh :

Sr. No.	Name of the member	Remark
1.	Smt. Preety Kapoor, Law Officer	Presiding Officer
2.	Smt. Namarata Khanna, Sr.Asst.	Member Convener
3.	Smt. Babita, Sr. Asstt.	Member (Joined under IDTP)
4.	Vinod Kumar, Sr. Asstt.	Member (Joined under IDTP)
5.	Mrs. Neena Singh, Trustee, Bharat Foundation Trust R/o H.No. 1601/36D, Chandigarh.	Member

Signature Not Verified
Digitally signed by
Jalinder Kumar
Date: 2023.02.17
15:48:11 IST
Reason: Public key
Location

The 2nd February, 2023.

VINAY PRATAP SINGH (IAS),
Estate Officer,
U.T., Chandigarh.

(181)

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<https://egazette.chd.gov.in>

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 8th February, 2023

No. 13/1/9933-HII(2)-2023/1735.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 36/2018 dated 30.11.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

BALWINDER SINGH, MALI, S/O SHRI SUCHA SINGH, R/O HOUSE NO. 197, MOULI JAGRAN, U.T. CHANDIGARH (8054831470) (Workman)

AND

THE DIRECTOR, DEPARTMENT OF INFORMATION TECHNOLOGY, CHANDIGARH ADMINISTRATION, SECTOR 9, CHANDIGARH. (Management)

AWARD

1. Balwinder Singh, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman had joined the services on 05.12.2012 as Mali with the respondent-management and posted at EDC Building situated at IT Park, Chandigarh. The workman has been carrying on his work as assigned by his superiors with the respondent-management from time to time. During his tenure, his work and conduct has already been found to be satisfactory. The workman has been performing various works which were assigned by his department or his superior irrespective of the work offered to him as the workman was doing work as Peon, Chowkidar, Attendant or Carrier since his appointment as employee with the respondent-management. The workman never given any chance of complaint and there were no adverse remarks against him. The workman being fully eligible had applied and accordingly he was appointed as Mali with the respondent-management as his services were required. The department had also put his name on muster roll and salary is drawn in his saving bank account No.6912000100017450 maintained with PNB, Kishangarh, Chandigarh. The workman had come to know from the reliable resources that his services along with six other workmen are going to be terminated and the workman is to be entrusted to the contractor. The workman along with other six workmen moved representation dated 23.11.2015. The workman had completed 1090 days on the date of his removal by the respondent-management from its office, which is more than 90 days. The workman is married and having responsibility of his family. The lives of the workman and his wards may be ruined, if his services are terminated, therefore, the workman may be reinstated in the interest of justice and future his wards. On 01.12.2015 the respondent-management told that the services of the workman along with six other workmen are no more required in their department and they have to join their services under contractor, if the workman / workmen want to work with the respondent-management. Therefore, all the workmen had given a representation dated 01.12.2015 to the department for not to remove them from their services, since they are working from the last so many years. The respondent-management had crossed all the limits and without assigning any reason and prior notice had terminated the services of above said workmen. The workman has not received monthly salary and he apprehends that the respondent-management might have got his signatures on such documents and makes him to come on the roads. The services of the workman are required by the respondent-management as evident from the fact that the respondent-management had deployed another person in his place through outsource / contractor. The respondent-management was not satisfied with the services of outsource employees. The workman and other six workmen had filed original application No.0060/01141-CH of 2015 titled Arvind & Others Versus Chandigarh Administration & Others before the learned Central Administrative Tribunal (CAT) which was drawn on 30.08.2017 with liberty to avail the remedies available to the workman. The termination

of the workman by the respondent-management is totally illegal, *mala fide*, arbitrary, null & void and in gross violation of the statutory provisions of the ID Act and against the principles of natural justice, equity and good conscious on the ground that the services of the workmen have been terminated on account of unfair labour practices, the act of terminating the services of the workmen are cryptic, the workmen were not supplied with the copies of relied upon documents which has caused material prejudice to them, no notice or retrenchment compensation was paid to the workman under Section 25-F of the ID Act, no preference is given to the workman at the time of termination, the workman were not afforded the opportunity of defence at any time, the other persons have been kept against the post of workmen and as such the verbal order of termination is violation of Section 25-H of the ID Act, no proper and valid inquiry was held against the workman and their services have been terminated against the principles of natural justice. Besides, the principle of 'first come last go' has been violated and has not been adopted by the respondent-management, though it is mandatory. Now the respondent-management again has victimized the workman and has terminated his services arbitrarily and illegally. Previously the workman had submitted demand notice dated 19.12.2017 to the respondent-management and before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. The conciliation Officer initiated conciliation proceedings in the matter of industrial dispute so raised by the workman but ultimately the conciliation proceedings fails on 13.03.2018 and the workman was advised to refer Section 2-A of the ID Act and accordingly this claim. Prayer is made that order of dismissal dated 01.12.2015 may be declared as illegal being in violation of labour law and principles of natural justice and the workman may be ordered to be reinstated in to service of the company with all service benefits including full back wages and continuity of service from the date of his illegal termination.

2. On notice, the respondent-management appeared through Law Officer and contested the claim by filing written statement dated 22.11.2018 filed on 07.02.2019 wherein preliminary submissions are made to the effect that the workman was hired as Mail by the employer/management directly on daily wages and was deployed at EDC Building (Entrepreneur Development Centre) at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. As a policy matter it was decided by the Central Authority of Chandigarh Administration *vide* letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 to appoint Category 'D' employees through an outsource agency for the betterment of this Category of employees in all the departments under the Chandigarh Administration and accordingly in the month of May 2013, after taking approval from the competent authority but the same could not be finalised due huge financial implications. Simultaneously, SPIC (Society for Promotion of IT in Chandigarh) a society working under the aegis of Department of IT i.e. management No.1 has also floated a tender for housekeeping and security staff for the Sampark Centres and IT Park needs. Accordingly, it was decided to obtain the services of the contractor selected by SPIC for contractual staff requirement of EDC Building. In the meantime, the services of these daily wages staff including the workman were approved to be extended / continued upto 30.11.2015. It was also decided that after selection of contractor by SPIC, the same contractor shall be utilised for supplying needs of the EDC Building and by bringing the workman including other daily wagers also under its role to benefit with ESI and EPF etc. After the due selection of contractor i.e. M/s Sherwal Enterprises by SPIC, the workman was asked to register with the said contractor for re-appointment and to avail benefits of deduction of ESI and EPF etc. from the salary. The workman refused to register with the contractor as is apparent from his letter dated 23.11.2015. Since the contractor was assigned the work of providing the staff and when the workman refused to register with the contractor, the contractor appointed its own staff in the EDC Building w.e.f. 01.12.2015. Accordingly, the services of the daily wages staff including the workman, who refused to get registered with the contractor appointed for the purpose as a policy matter left no option with the contractor but to arrange other resource to continue the services at EDC Building. It was the positive gesture on the part of the management department to advice the workman to register with the contractor for own benefits such as deduction of ESI, PF, gazetted holidays and Sunday off etc. However, the workman chosen not to register with the contractor. The first preference for appointment was given to the workman and co-workers who all were daily wage workers but they refused to register with the contractor.

3. Further on merits, it is admitted to the extent that the workman was hired by the employer / management for Mali on daily wages and was further deployed at EDC Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. There is no sanctioned post with the employer/ management therefore the workman was hired against non-sanctioned post on daily ways. It is denied that the workman has been assigned other works such as Peon, Chowkidar, Attendant or a Carrier since appointment. He was only performing the work of Mali. The workman was paid remuneration on the basis of number of working days. Accordingly, remuneration per month was credited to saving account. The workman was not in continuous employment with the employer / management as he was not paid for non-working days / holidays notified by the Chandigarh Administration from time to time. The employer- management never terminated the services of the workman. It is the workman, who refused to register with the contractor so he is not entitled for reinstatement. The department had paid the salary of the workman including arrear in full which is evident from the statement downloaded from the Composite Financial Accounting System of the Chandigarh Administration. Further similar taken is taken as taken in the preliminary submissions. The services of the workman were never terminated by the management. In fact the workman was given an opportunity for reemployment through the approved contractor which is legal and in compliance of letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 of the Chandigarh Administration to outsource services of category 'D' employees through a contractor. The workman failed to register with the approved contractor for re-employment and his services cannot be restored / reinstated at this stage being the fact that the approved contractor hired his own staff to provide housekeeping services for the employer / management. Hence, the workman is neither entitled to reinstatement nor to any back wages. Prayer is made that the present case may be dismissed with costs in the interest of justice.

4. The workman filed replication wherein contents of the written statement are denied as wrong except admitted facts of the claim statement and averments of claim statement are reiterated.

5. From the pleadings of the parties, following issues were framed *vide* order dated 04.07.2019 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

6. In evidence the workman Balwinder Singh examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W9' and Mark 'WA' to Mark 'WC'.

Exhibit 'W1' is photocopy of saving bank account passbook of workman Balwinder Singh, bearing account No. 6912000100017450 maintained with Punjab National Bank, Kishangarh, Chandigarh incorporating entries from 17.12.2012 to 27.11.2015.

Exhibit 'W2' is copy of letter dated 23.11.2015 issued to SIT, Deluxe Building, Sector 9, Chandigarh from the workmen namely Shanker, ARvind, Rajinder, Palanival, Manjula, Salavi (Department - Housekeeping) and Balwinder (Department - Mali) EDC Staff, IT Park, Chandigarh relating to the subject of 'Non-shifting of Housekeeping Staff of EDC under Private Contractor'

Exhibit 'W3' is copy of adhaar card of Hardeep Kaur W/o Balwinder Singh.

Exhibit 'W4' is copy of adhaar card of Sandeep Mehra S/o Balwinder Singh.

Exhibit 'W5' is copy of identity card of Sandeep S/o Shri Balwinder Singh issued by S. S. Public School, Mouli Jagran, U.T. Chandigarh.

Exhibit 'W6' is copy of application dated 01.12.2015 jointly addressed from Arvind, Rajinder, Pallanival, Manjula, Salavi, Balwinder and Shanker to the Advisor to the Administrator, U.T. Secretariat, Sector 9, Chandigarh

and Director Department of Information Technology, Sector 9, Chandigarh on the subject of application for expelling the applicants from their services for the last more than 3 ½ years without giving prior notice from the EDC Building, IT Park, Chandigarh and to request to continue them to work at EDC Building, IT Park, Chandigarh.

Exhibit 'W7' is copy of order dated 30.08.2017 passed by the Central Administrative Tribunal, Chandigarh Bench on OA No.060/01141/2015 titled as Arvind & Others Versus Chandigarh Administration and Another.

Exhibit 'W8' is copy of demand notice dated 19.12.2017 under Section 2(k) of the ID Act raised by the workman to the Director, Department of Information Technology, Chandigarh Administration, Sector 9, Chandigarh.

Exhibit 'W9' is failure report of conciliation proceedings bearing Memo No.971 dated 19.03.2018 issued from the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh to Balwinder Singh. Mark 'WA' is copy of attendance register of Peon, Housekeeping, Gardner for the month of April 2013. Mark 'WB' is copy of attendance register of Housekeeping, Gardner for the month of November 2015. Mark 'WC' (document also exhibited vide Exhibit 'AW2/2') is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

7. The workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who brought the summoned record and proved documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

Exhibit 'AW2/1' is copy of attendance register from April 2013 to 30.11.2015 of Peon, Housekeeping including the name of the workman.

Exhibit 'AW2/2' is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

Exhibit 'AW2/3' copy of attendance register for the month of December 2015 of outsource employees / Housekeeping provided by M/s Sherwal Enterprises, deployed at EDC Building, Chandigarh.

On 23.09.2021 learned representative for the workman closed evidence in affirmative on behalf of the workman.

8. On the other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

Exhibit 'M1' is copy of authority letter bearing Memo No.306/IT/2021-22/1504 dated 02.11.2021 issued by Director Information Technology, Chandigarh Administration in favour of Shri Dalbir Singh - Senior Assistant authorising him to appear before the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh in IDR/36/2018 titled Balwinder Singh Versus Director Department of Information Technology, Chandigarh Administration.

Exhibit 'M2' is copy of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg.

Exhibit 'M3' is copy of statement of last salary paid to the workman (name of workman Balwinder Singh incorporated at serial No.2 & 3) for the month of November 2015 downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Exhibit 'M4' is copy of statement of arrears in the sum of ₹ 8,673/- paid to the workman (incorporating name of workman Balwinder Singh at serial No. 5) downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Mark 'A' is copy of application dated 23.11.2015 jointly addressed from Shanker, Arvind, Rajinder, Pallanival, Manjula, Salavi and Balwinder to the SIT, Deluxe Building, Chandigarh on the subject of request for non-shifting of housekeeping staff of EDC under private contractor.

On 30.11.2022 learned Law Officer closed the evidence on behalf of the management.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Balwinder Singh examined himself as AW1 and *vide* his affidavit Exhibit 'AW1/A' the averments of claim statement in toto. AW1 supported his oral version with documents Exhibit 'W1' to 'W9' and Mark 'WA' to 'WC'.

12. For corroboration the workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who deposed that he is summoned witness working as Accountant in the Department of Information Technology since 2012. He had joined the department in the year 2001. He has brought the summoned record i.e. attendance register from April 2013 to 30.11.2015. Copy of same is Exhibit 'AW2/1' attendance register pertaining to 05.12.2012 to March 2013 is not available with the department. He has also brought the summoned record i.e. letter dated 21.03.2016 copy of which is Exhibit 'AW2/2'. He has brought the attendance register for the month of December 2015 i.e. Exhibit 'AW2/3'. Their department employed 9 employees through contractor M/ Sherwal Enterprises, SCO 68, First Floor, Sector 40-C, Chandigarh. The department is not paying salary to the employee mentioned in Exhibit 'AW2/3' and the department is making payment to the contractor. Prior to this the department used to pay salary directly into the account of workman in the present case.

13. On other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who *vide* his affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement and supported his oral version with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

14. From the oral as well as documentary evidence led by the parties, it comes out that there is no dispute between the parties with regard to the facts that in the year 2012-13 the workman was hired as Mali against non-sanctioned posts by the employer/management directly on daily wages and was deployed at Entrepreneur Development Centre (EDC) Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh and no appointment letter was ever issued to the workman. In this regard, the workman / AW1 in his cross-examination stated that he was appointed on dated 05.12.2013. No appointment letter was ever issued to him by the management. Admittedly, the attendance of the workman was marked in the muster roll. In this regard MW1 in his cross-examination admitted as correct that the attendance of the workman was marked in muster roll Exhibit 'AW2/1'. Undisputedly, the workman worked as Mali with the management from 05.12.2012 to 30.11.2015. The workman has pleaded that on 01.12.2015 he was informed by the department that his services along with six other workmen are no more required in their department and they have to join its under the contractor if he wants to work with the department. The management in the written statement pleaded that the workman did not register with the approved contractor for re-employment and the contractor appointed his own staff in the EDC building w.e.f. 01.12.2015. The aforesaid pleas taken by the parties in their respective claim statement and written statement endorsed the fact that the workman worked up to 30.11.2015 with the management.

15. Learned representative for the workman referred cross-examination of MW1 Dalbir Singh wherein he has admitted as correct that the workman was employee of the department of Information Technology on daily wage basis for its EDC Building at IT Park. MW1 admitted as correct that there is no complaint against the workman in their record regarding he has not abided by the directions of his superiors. MW1 in his cross-examination further stated that no written notice was given to the workman. MW1 denied the suggestion as wrong that the department has wrongly and illegally terminated the services of the workman without following the provisions of the ID Act. MW1 in his cross-examination stated that on 1st December, 2015 the department has engaged the services of Sherwal Enterprises for rendering the services in the EDC Building. At present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join. By making reference to the aforesaid version of MW1 learned representative for the workman contended that the services of the workman are terminated in view of letter dated 07.11.2014 / Exhibit 'M2'. The management has wrongly interpreted the contents of Exhibit 'M2' according to which all the Group 'D' posts as and when fallen vacant are to be filled up through outsourcing after following proper procedure. In the present case when the letter dated 07.11.2014 / Exhibit 'M2' was issued, at that time the workman was already working against the post, therefore, the said post could not be considered as vacant. But the management / department after removing the workman from the post, deployed another employee on the same post throughout source contractor which show that there is still requirement of the post from which the workman has been removed. Moreover, during his tenure the workman served the management / department in a satisfactory manner and there was no complaint against his conduct.

16. On the other hand, learned Law Officer for the management has contended that the services of the workman were not terminated. In view of policy of the Government formulated vide letter dated 07.11.2014 / Exhibit 'M2', there was requirement to fill all the Group 'D' post as and when fallen vacant through outsourcing after following proper procedure and in pursuance of the said letter Exhibit 'M2', the workman was given option to join through outsource contractor to which the workman refused and thereafter w.e.f. 01.12.2015 the contractual employees were deployed against the vacant post through outsource contractor M/s Sherwal Enterprises.

17. To my opinion for better appreciation of policy of the Government, it would be apposite to reproduce the contents of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg. / Exhibit 'M2':-

"I am directed to refer you on the subject noted above and to state that keeping in view the Punjab Government instructions issued vide No.15/74/2010-4PP3/391 dated 18.03.2021 and recommendations of 6th Central Pay Commission report, it has been decided by this Administration that all the Group 'D' posts, as when fallen vacant, are filled up through outsourcing after following proper procedure."

18. In the present case, the workman has failed to controvert the fact that he was working as daily wager Mali against non-sanctioned vacant post with the respondent-management. By virtue of the instructions issued vide letter Exhibit 'M2' it was incumbent upon the department management to deploy an outsource employee against the said post instead of a daily wage workman. Before deploying an outsource employee against the said post, the department / management provided fair opportunity to the workman to apply through the contractor if he willing to continue to work on the said post but it is the workman who refused to accept the offer. In this regard the workman / AW1 in his cross-examination admitted as correct that the management offered him to join through contractor before he left from the management. The workman own witness AW2 Subhash Chander in his cross-examination admitted as correct that they had offered to the workman to join through outsource agency but the workman refused to work under the contractor. MW1 in his cross-examination

stated that at present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join.

19. The plea taken by the workman in his cross-examination that he do not know whether Chandigarh Administration had framed policy to outsource for Group 'D' posts is devoid of merits because the fact being not specifically denied is deemed to be admitted under the law. Moreover, the letter dated 23.11.2015 /Exhibit 'W2' is addressed from the workmen including the name of the workman Balwinder at serial No.7 to SIT Deluxe Building, Chandigarh and as per the contents of said letters the workman requested that according to new Government policy from Head of Department of EDC Building, they are being shifted under private contractor but they do not want to work under the private contractor and further requested not to shift them and keep them treating employees of EDC Building as previously and they mentioned the three reasons for which they are not willing to work under the private contractor. The said three reasons are reproduced as below :—

- "1) *If we are working under private contractor then they can terminate us any time.*
- 2) *DC rates are also decrease by them.*
- 3) *We are not receiving the salary on time."*

From the above mentioned contents of Exhibit 'W2' it is duly proved on record that the workman is very much in knowledge of the new Government policy / instructions issued through letter dated 07.11.2014 and this fact falsifies the version of AW1 that he has no knowledge whether Chandigarh Administration had framed policy to outsource for Group 'D' posts. The contents of letter Exhibit 'W2' further supports the plea of the management that the workman was offered to work through the contractor to which the workman refused.

20. In view of the reasons recorded above, the termination of the workman is not illegal in any manner rather the workman himself left the job by refusing to accept the offer to join through outsource agency / contractor as per instructions of the Government dated 07.11.2014 / Exhibit 'M2'.

21. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :-

22. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . .,

The 30th November, 2022.

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 8th February, 2023

No. 13/1/9932-HII(2)-2023/1737.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 41/2018 dated 30.11.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SHANKER, AGED 34 YEARS, S/O SHRI RAYAR, R/O HOUSE NO. 2014, MOULI JAGRAN, U.T. CHANDIGARH (9888211331) (Workman)

AND

THE DIRECTOR, DEPARTMENT OF INFORMATION TECHNOLOGY, CHANDIGARH ADMINISTRATION, SECTOR 9, CHANDIGARH. (Management)

AWARD

1. Shanker, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman had joined the services on 02.12.2013 as Housekeeping with the respondent-management and posted at EDC Building situated at IT Park, Chandigarh. The workman has been carrying on his work as assigned by his superiors with the respondent-management from time to time. During his tenure, his work and conduct has already been found to be satisfactory. The workman has been performing various works which were assigned by his department or his superior irrespective of the work offered to him as the workman was doing work as Peon, Chowkidar, Attendant or Carrier since his appointment as employee with the respondent-management. The workman never given any chance of complaint and there were no adverse remarks against him. The workman being fully eligible had applied and accordingly he was appointed as Housekeeping with the respondent-management as his services were required. The department had also put his name on muster roll and salary is drawn in his saving bank account No.6188432670 maintained with Indian Bank, NAC, Manimajra, Chandigarh. The workman had come to know from the reliable resources that his services along with six other workmen are going to be terminated and the workman is to be entrusted to the contractor. The workman along with other six workmen moved representation dated 23.11.2015. The workman had completed 729 days on the date of his removal by the respondent-management from its office, which is more than 90 days. The workman is married and having responsibility of his family. The lives of the workman and his wards may be ruined, if his services are terminated, therefore, the workman may be reinstated in the interest of justice and future his wards. On 01.12.2015 the respondent-management told that the services of the workman along with six other workmen are no more required in their department and they have to join their services under contractor, if the workman / workmen want to work with the respondent-management. Therefore, all the workmen had given a representation dated 01.12.2015 to the department for not to remove them from their services, since they are working from the last so many years. The respondent-management had crossed all the limits and without assigning any reason and prior notice had terminated the services of above said workmen. The workman has not received monthly salary and he apprehends that the respondent-management might have got his signatures on such documents and makes him to come on the roads. The services of the workman are required by the respondent-management as evident from the fact that the respondent-management had deployed another person in his place through outsource/contractor. The respondent-management was not satisfied with the services of outsource employees. The workman and other six workmen had filed original application No.0060/01141-CH of 2015 titled Arvind & Others Versus Chandigarh Administration & Others before the learned Central Administrative Tribunal (CAT) which was drawn on 30.08.2017 with liberty to avail the remedies available to the workman. The termination of the workman by the respondent-management is totally illegal, *mala fide*, arbitrary, null & void and in gross violation of the statutory provisions of the ID Act and

against the principles of natural justice, equity and good conscious on the ground that the services of the workmen have been terminated on account of unfair labour practices, the act of terminating the services of the workmen are cryptic, the workmen were not supplied with the copies of relied upon documents which has caused material prejudice to them, no notice or retrenchment compensation was paid to the workman under Section 25-F of the ID Act, no preference is given to the workman at the time of termination, the workman were not afforded the opportunity of defence at any time, the other persons have been kept against the post of workmen and as such the verbal order of termination is violation of Section 25-H of the ID Act, no proper and valid inquiry was held against the workman and their services have been terminated against the principles of natural justice. Besides, the principle of 'first come last go' has been violated and has not been adopted by the respondent-management, though it is mandatory. Now the respondent-management again has victimized the workman and has terminated his services arbitrarily and illegally. Previously the workman had submitted demand notice dated 19.12.2017 to the respondent-management and before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. The conciliation Officer initiated conciliation proceedings in the matter of industrial dispute so raised by the workman but ultimately the conciliation proceedings fails on 13.03.2018 and the workman was advised to refer Section 2-A of the ID Act and accordingly this claim. Prayer is made that order of dismissal dated 01.12.2015 may be declared as illegal being in violation of labour law and principles of natural justice and the workman may be ordered to be reinstated in to service of the company with all service benefits including full back wages and continuity of service from the date of his illegal termination.

2. On notice, the respondent-management appeared through Law Officer and contested the claim by filing written statement dated 22.11.2018 filed on 07.02.2019 wherein preliminary submissions are made to the effect that the workman was hired as Housekeeping Staff by the employer/management directly on daily wages and was deployed at EDC Building (Entrepreneur Development Centre) at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. As a policy matter it was decided by the Central Authority of Chandigarh Administration vide letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 to appoint Category 'D' employees through an outsource agency for the betterment of this Category of employees in all the departments under the Chandigarh Administration and accordingly in the month of May 2013, after taking approval from the competent authority but the same could not be finalised due huge financial implications. Simultaneously, SPIC (Society for Promotion of IT in Chandigarh) a society working under the aegis of Department of IT i.e. management No.1 has also floated a tender for housekeeping and security staff for the Sampark Centres and IT Park needs. Accordingly, it was decided to obtain the services of the contractor selected by SPIC for contractual staff requirement of EDC Building. In the meantime, the services of these daily wages staff including the workman were approved to be extended / continued upto 30.11.2015. It was also decided that after selection of contractor by SPIC, the same contractor shall be utilised for supplying needs of the EDC Building and by bringing the workman including other daily wagers also under its role to benefit with ESI and EPF etc. After the due selection of contractor i.e. M/s Sherwal Enterprises by SPIC, the workman was asked to register with the said contractor for re-appointment and to avail benefits of deduction of ESI and EPF etc. from the salary. The workman refused to register with the contractor as is apparent from his letter dated 23.11.2015. Since the contractor was assigned the work of providing the staff and when the workman refused to register with the contractor, the contractor appointed its own staff in the EDC Building w.e.f. 01.12.2015. Accordingly, the services of the daily wages staff including the workman, who refused to get registered with the contractor appointed for the purpose as a policy matter left no option with the contractor but to arrange other resource to continue the services at EDC Building. It was the positive gesture on the part of the management department to advice the workman to register with the contractor for own benefits such as deduction of ESI, PF, gazetted holidays and Sunday off etc. However, the workman chosen not to register with the contractor. The first preference for appointment was given to the workman and co-workers who all were daily wage workers but they refused to register with the contractor.

3. Further on merits, it is admitted to the extent that the workman was hired by the employer / management for Housekeeping on daily wages and was further deployed at EDC Building at Rajiv Gandhi

Chandigarh Technology Park, Chandigarh in the year 2012-13. There is no sanctioned post with the employer/management therefore the workman was hired against non-sanctioned post on daily ways. It is denied that the workman has been assigned other works such as Peon, Chowkidar, Attendant or a Carrier since appointment. He was only performing the work of Housekeeping. The workman was paid remuneration on the basis of number of working days. Accordingly, remuneration per month was credited to saving account. The workman was not in continuous employment with the employer / management as he was not paid for non-working days / holidays notified by the Chandigarh Administration from time to time. The employer-management never terminated the services of the workman. It is the workman, who refused to register with the contractor so he is not entitled for reinstatement. The department had paid the salary of the workman including arrear in full which is evident from the statement downloaded from the Composite Financial Accounting System of the Chandigarh Administration. Further similar taken is taken as taken in the preliminary submissions. The services of the workman were never terminated by the management. In fact the workman was given an opportunity for reemployment through the approved contractor which is legal and in compliance of letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 of the Chandigarh Administration to outsource services of category 'D' employees through a contractor. The workman failed to register with the approved contractor for re-employment and his services cannot be restored / reinstated at this stage being the fact that the approved contractor hired his own staff to provide housekeeping services for the employer / management. Hence, the workman is neither entitled to reinstatement nor to any back wages. Prayer is made that the present case may be dismissed with costs in the interest of justice.

4. The workman filed replication wherein contents of the written statement are denied as wrong except admitted facts of the claim statement and averments of claim statement are reiterated.

5. From the pleadings of the parties, following issues were framed *vide* order dated 04.07.2019 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

6. In evidence the workman Shankar examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W6' and Mark 'WA' to Mark 'WC'. Exhibit 'W1' is photocopy of saving bank account passbook of workman Shankar, bearing account No.6188432670 maintained with Indian Bank, Sector 7, Chandigarh incorporating entries from 01.01.2014 to 28.03.2014 and 09.12.2015 to 22.04.2016.\

Exhibit 'W2' is copy of letter dated 23.11.2015 issued to SIT, Deluxe Building, Sector 9, Chandigarh from the workmen namely Shanker, Arvind, Rajinder, Palanival, Manjula, Salavi (Department - Housekeeping) and Balwinder (Department - Mali) EDC Staff, IT Park, Chandigarh relating to the subject of 'Non-shifting of Housekeeping Staff of EDC under Private Contractor'

Exhibit 'W3' is copy of application dated 01.12.2015 jointly addressed from Arvind, Rajinder, Pallanival, Manjula, Salavi, Balwinder and Shanker to the Advisor to the Administrator, U.T. Secretariat, Sector 9, Chandigarh and Director Department of Information Technology, Sector 9, Chandigarh on the subject of application for expelling the applicants from their services for the last more than 3 ½ years without giving prior notice from the EDC Building, IT Park, Chandigarh and to request to continue them to work at EDC Building, IT Park, Chandigarh.

Exhibit 'W4' is copy of order dated 30.08.2017 passed by the Central Administrative Tribunal, Chandigarh Bench on OA No.060/01141/2015 titled as Arvind & Others Versus Chandigarh Administration and Another.

Exhibit 'W5' is copy of demand notice dated 19.12.2017 under Section 2(k) of the ID Act raised by the workman to the Director, Department of Information Technology, Chandigarh Administration, Sector 9,

Chandigarh.

Exhibit 'W6' is notice bearing Endorsement No.43 dated 03.01.2018 issued to the Director, Department of Information Technology, Chandigarh Administration, Sector 9, Chandigarh by the Assistant Labour Commissioner-cum-Conciliation Officer, Chandigarh regarding demand notice under Section 2-A of the ID Act raised by Shanker, S/o Shri Rayar, R/o House No.2014, Mouli Jagran, U.T. Chandigarh.

Mark 'WA' is copy of attendance register of Peon, Housekeeping, Gardner for the month of April 2013.

Mark 'WB' is copy of attendance register of Housekeeping, Gardner for the month of November 2015.

Mark 'WC' (document also exhibited *vide* Exhibit 'AW2/2') is copy of letter Memo No. 716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

7. The workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who brought the summoned record and proved documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

Exhibit 'AW2/1' is copy of attendance register from April 2013 to 30.11.2015 of Peon, Housekeeping including the name of the workman.

Exhibit 'AW2/2' is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

Exhibit 'AW2/3' copy of attendance register for the month of December 2015 of outsource employees / Housekeeping provided by M/s Sherwal Enterprises, deployed at EDC Building, Chandigarh.

On 23.09.2021 learned representative for the workman closed evidence in affirmative on behalf of the workman.

8. On the other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

Exhibit 'M1' is copy of authority letter bearing Memo No.306/IT/2021-22/1500 dated 02.11.2021 issued by Director Information Technology, Chandigarh Administration in favour of Shri Dalbir Singh - Senior Assistant authorising him to appear before the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh in IDR/40/2018 titled Shankar Versus Director Department of Information Technology, Chandigarh Administration.

Exhibit 'M2' is copy of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg.

Exhibit 'M3' is copy of statement of last salary paid to the workman (name of workman Shankar incorporated at serial No.7) for the month of November 2015 downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Exhibit 'M4' is copy of statement of arrears in the sum of ₹ 8,610/- paid to the workman (incorporating name of workman Shankar at serial No.4) downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Mark 'A' is copy of application dated 23.11.2015 jointly addressed from Shanker, Arvind, Rajinder, Pallanival, Manjula, Salavi and Balwinder to the SIT, Deluxe Building, Chandigarh on the subject of request for non-shifting of housekeeping staff of EDC under private contractor.

On 30.11.2022 learned Law Officer closed the evidence on behalf of the management.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise finding are as below :—

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Shankar examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' the averments of claim statement in toto. AW1 supported his oral version with documents Exhibit 'W1' to 'W6' and Mark 'WA' to 'WC'.

12. For corroboration the workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who deposed that he is summoned witness working as Accountant in the Department of Information Technology since 2012. He had joined the department in the year 2001. He has brought the summoned record i.e. attendance register from April 2013 to 30.11.2015. Copy of same is Exhibit 'AW2/1' attendance register pertaining to 05.12.2012 to March 2013 is not available with the department. He has also brought the summoned record i.e. letter dated 21.03.2016 copy of which is Exhibit 'AW2/2'. He has brought the attendance register for the month of December 2015 i.e. Exhibit 'AW2/3'. Their department employed 9 employees through contractor M/ Sherwal Enterprises, SCO 68, First Floor, Sector 40-C, Chandigarh. The department is not paying salary to the employee mentioned in Exhibit 'AW2/3' and the department is making payment to the contractor. Prior to this the department used to pay salary directly into the account of workman in the present case.

13. On other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who vide his affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement and supported his oral version with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

14. From the oral as well as documentary evidence led by the parties, it comes out that there is no dispute between the parties with regard to the facts that in the year 2012-13 the workman was hired as Housekeeping Staff against non-sanctioned posts by the employer/management directly on daily wages and was deployed at Entrepreneur Development Centre (EDC) Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh and no appointment letter was ever issued to the workman. In this regard, the workman / AW1 in his cross-examination stated that he was appointed on dated 03.12.2013. No appointment letter was ever issued to him by the management. Admittedly, the attendance of the workman was marked in the muster roll. In this regard MW1 in his cross-examination admitted as correct that the attendance of the workman was marked in muster roll Exhibit 'AW2/1'. Undisputedly, the workman worked as Housekeeping with the management from 03.12.2013 to 30.11.2015. The workman has pleaded that on 01.12.2015 he was informed by the department that his services along with six other workmen are no more required in their department and they have to join its under the contractor if he wants to work with the department. The management in the written statement pleaded that the workman did not register with the approved contractor for re-employment and the contractor appointed his own staff in the EDC building w.e.f. 01.12.2015. The aforesaid pleas taken by the parties in their respective claim statement and written statement endorsed the fact that the workman worked up to 30.11.2015 with the management.

15. Learned representative for the workman referred cross-examination of MW1 Dalbir Singh wherein he has admitted as correct that the workman was employee of the department of Information Technology on daily wage basis for its EDC Building at IT Park. MW1 admitted as correct that there is no complaint against the workman in their record regarding he has not abided by the directions of his superiors. MW1 in his cross-examination further stated that no written notice was given to the workman. MW1 denied the suggestion as wrong that the department has wrongly and illegally terminated the services of the workman without following the provisions of the ID Act. MW1 in his cross-examination stated that on 1st December, 2015 the department has engaged the services of Sherwal Enterprises for rendering the services in the EDC Building. At present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join. By making reference to the aforesaid version of MW1 learned representative for the workman contended that the services of the workman are terminated in view of letter dated 07.11.2014 / Exhibit 'M2'. The management has wrongly interpreted the contents of Exhibit 'M2' according to which all the Group 'D' posts as and when fallen vacant are to be filled up through outsourcing after following proper procedure. In the present case when the letter dated 07.11.2014 / Exhibit 'M2' was issued, at that time the workman was already working against the post, therefore, the said post could not be considered as vacant. But the management / department after removing the workman from the post, deployed another employee on the same post throughout source contractor which show that there is still requirement of the post from which the workman has been removed. Moreover, during his tenure the workman served the management / department in a satisfactory manner and there was no complaint against his conduct.

16. On the other hand, learned Law Officer for the management has contended that the services of the workman were not terminated. In view of policy of the Government formulated *vide* letter dated 07.11.2014 / Exhibit 'M2', there was requirement to fill all the Group 'D' post as and when fallen vacant through outsourcing after following proper procedure and in pursuance of the said letter Exhibit 'M2', the workman was given option to join through outsource contractor to which the workman refused and thereafter w.e.f. 01.12.2015 the contractual employees were deployed against the vacant post through outsource contractor M/s Sherwal Enterprises.

17. To my opinion for better appreciation of policy of the Government, it would be apposite to reproduce the contents of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg. / Exhibit 'M2':—

"I am directed to refer you on the subject noted above and to state that keeping in view the Punjab Government instructions issued vide No.15/74/2010-4PP3/391 dated 18.03.2021 and recommendations of 6th Central Pay Commission report, it has been decided by this Administration that all the Group 'D' posts, as when fallen vacant, are filled up through outsourcing after following proper procedure."

18. In the present case, the workman has failed to controvert the fact that he was working as daily wagger Housekeeping against non-sanctioned vacant post with the respondent-management. By virtue of the instructions issued *vide* letter Exhibit 'M2' it was incumbent upon the department management to deploy an outsource employee against the said post instead of a daily wage workman. Before deploying an outsource employee against the said post, the department / management provided fair opportunity to the workman to apply through the contractor if he willing to continue to work on the said post but it is the workman who refused

to accept the offer. In this regard the workman / AW1 in his cross-examination admitted as correct that the management offered him to join through contractor before he left from the management. The workman own witness AW2 Subhash Chander in his cross-examination admitted as correct that they had offered to the workman to join through outsource agency but the workman refused to work under the contractor. MW1 in his cross-examination stated that at present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join.

19. The plea taken by the workman in his cross-examination that he do not know whether Chandigarh Administration had framed policy to outsource for Group 'D' posts is devoid of merits because the fact being not specifically denied is deemed to be admitted under the law. Moreover, the letter dated 23.11.2015 /Exhibit 'W2' is addressed from the workmen including the name of the workman Shanker at serial No.1 to SIT Deluxe Building, Chandigarh and as per the contents of said letters the workman requested that according to new Government policy from Head of Department of EDC Building, they are being shifted under private contractor but they do not want to work under the private contractor and further requested not to shift them and keep them treating employees of EDC Building as previously and they mentioned the three reasons for which they are not willing to work under the private contractor. The said three reasons are reproduced as below :—

- "1) If we are working under private contractor then they can terminate us any time.
- 2) DC rates are also decrease by them.
- 3) We are not receiving the salary on time."

From the above mentioned contents of Exhibit 'W2' it is duly proved on record that the workman is very much in knowledge of the new Government policy / instructions issued through letter dated 07.11.2014 and this fact falsifies the version of AW1 that he has no knowledge whether Chandigarh Administration had framed policy to outsource for Group 'D' posts. The contents of letter Exhibit 'W2' further supports the plea of the management that the workman was offered to work through the contractor to which the workman refused.

20. In view of the reasons recorded above, the termination of the workman is not illegal in any manner rather the workman himself left the job by refusing to accept the offer to join through outsource agency / contractor as per instructions of the Government dated 07.11.2014 / Exhibit 'M2'.

21. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

22. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 30th November, 2022.

(Sd.). . .,

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 8th February, 2023

No. 13/1/9929-HII(2)-2023/1744.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 39/2021 dated 09.12.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

RAJ KUMAR S/O SHRI JANAK SINGH, VILLAGE KAKRALI, PO TODA, DISTT. PANCHKULA, (HR) (Workman)

AND

1. K.D. ENGINEERING PVT. LTD., PLOT NO. 58, INDUSTRIAL AREA, PHASE-I, CHANDIGARH.
2. KANWALJIT SINGH SEKHON, DIRECTOR, M/S K.D. ENGINEERING PVT. LTD., PLOT NO. 58, INDUSTRIAL AREA, PHASE I, CHANDIGARH.
3. HIMATJIT SINGH SEKHON, DIRECTOR, M/S K.D. ENGINEERING PVT. LTD., PLOT NO. 58, INDUSTRIAL AREA, PHASE I, CHANDIGARH (Management)

AWARD

1. Raj Kumar, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman was employed by the management as Grinder man on 01.04.1996. The workman remained in continuous and uninterrupted employment up to 30.09.2019 when he was released from service *vide* letter No.KD/RK/08 dated 27.08.2019. The workman was drawing ₹ 9,400/- per month as wages at the time of termination which was less than the minimum rate of wages applicable to management. Letter dated 27.08.2019 *vide* which the workman was released from services, amounts to termination, was sent to the workman by registered post at the address of his work place. In the letter of termination the reason of termination was mentioned that the services of the workman are not required by the industrial unit w.e.f. 30th September, 2019. It was further mentioned in the letter that the workman will be paid all dues on 01st October, 2019 but details of dues was not mentioned in the letter of termination. Earlier also the services of the workman were terminated on 14.10.2013 without assigning any reason and notice. The workman raised an industrial dispute for his reinstatement. The Labour Court, Chandigarh *vide* its award dated 13.04.2018 reinstated the workman with continuity of service and with 40% wages for the intervening period. Since the date of reinstatement the management started harassing the workman on one pretext or other. Therefore, the workman has not given any reason that why the services of the workman were not required in the industrial unit w.e.f. 30th September, 2019. The management directed the workman to sit idle, near the main gate, in front of the gate where garbage of the entire industry is stored. The management then recorded video on his mobile phone to show that the workman is sitting idle. The wages to the workman were never paid before 16th of the month whereas all the employees were paid wages on 7th of the month. The date on the salary cheque is always mentioned as 7th. The management issued unsigned frivolous letter No.KD/RKR/07 dated 29.06.2019 to the workman on the subject 'performance / production on the machine and general conduct and behavior - Show cause notice'. The workman replied the said letter on 08.07.2019, which was duly received by the management. Letter dated 26.03.2019, as referred by the management in letter dated 29.06.2019, was never received by the workman. The same facts were also disclosed by the workman in his reply dated 08.07.2019. The workman lodged a complaint dated 01.10.2019 with the Labour Inspector, U.T. Chandigarh for his reinstatement. The management refused to take the workman back on duty before the Labour Inspector, U.T. Chandigarh. Termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25-F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of

termination. Violation of the same makes the termination void. For his reinstatement the workman served upon the management a demand notice dated 06.07.2020. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for intervention. The Conciliation Officer intervened but the management refused to take the workman back on duty. Termination of the workman is illegal, wrong, motivated, against the principle of natural justice and unfair labour practice. Prayer is made that the workman may be reinstated with continuity of service, full back wages and without any change in his service conditions.

2. Upon notice, management No.1 appeared through its Accountant Shri Ashok Kumar. On 25.11.2021 none appeared on behalf of management No.1 so management No.1 was proceeded against *ex parte*.

3. Upon notice, management No.2 appeared through its authorised representative Shri Ashok Kumar. On 05.09.2022 none appeared on behalf of management No.2 so management No.2 was proceeded against *ex parte*.

4. On 18.11.2022 management No.1 appeared through its Accountant Shri Ashok Kumar and moved an application seeking to set aside *ex parte* order. Learned representative for the workman raised no objection if the application dated 18.11.2022 filed by management No.1 seeking to set aside *ex parte* order is allowed. In view of his no objection, *ex parte* order dated 25.11.2021 qua management No.1 was set aside.

5. On 09.12.2022 Brig. M. S. Dullat has filed fresh power of attorney on behalf of management No.1 and got recorded his statement, which is reproduced as below :—

"Stated that I tender on record authority letter dated 09.12.2022 issued in my favour by the authorised signatory of M/s Kay Dee Engineers Pvt. Ltd. which is Exhibit M-1. The workman has effected compromise with the management and has already received the compromise amount of Rs.1,85,000/- by way of cheque No.33380391 dated 18.11.2022 drawn on Union Bank, Branch Sector 17-B, Chandigarh, towards full and final settlement. The copy of full and final settlement receipt dated 18.11.2022 issued by the workman Raj Kumar is Exhibit M-2, copy of the above mentioned cheque dated 18.11.2022 is Exhibit M-3 and the copy of statement of bank account of management No.1 maintained with Union Bank, showing the relevant entry dated 21.11.2022 of payment of Rs.1,85,000/- by cheque to the workman is Exhibit M-4."

6. On the other hand, on 09.12.2022 learned representative for the workman got recorded his statement, which is reproduced as below :—

"Stated that I have heard the statement of Ld. representative for management No.1, got recorded by him today in the court which is true and correct. I agree with the same. The workman has already received the compromise amount in full and final settlement by way of cheque Exhibit M-3. Therefore, the present reference may be disposed off being compromised."

7. Heard. In view of the statement of learned representatives for the parties, the present industrial dispute is disposed off being compromised. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . .,

The 9th December, 2022.

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 8th February, 2023

No. 13/1/9930-HII(2)-2023/1748.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 35/2018 dated 30.11.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

ARVIND, AGED 31 YEARS, S/O SHRI MUNSHI RAM, R/O HOUSE NO. 204, SHASTRI NAGAR, MANIMAJRA, UT, CHANDIGARH (Workman)

AND

THE DIRECTOR, DEPARTMENT OF INFORMATION TECHNOLOGY, CHANDIGARH ADMINISTRATION, SECTOR 9, CHANDIGARH. (Management)

AWARD

1. Arvind, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman had joined the services on 04.03.2013 as Housekeeping with the respondent-management and posted at EDC Building situated at IT Park, Chandigarh. The workman has been carrying on his work as assigned by his superiors with the respondent-management from time to time. During his tenure, his work and conduct has already been found to be satisfactory. The workman has been performing various works which were assigned by his department or his superior irrespective of the work offered to him as the workman was doing work as Peon, Chowkidar, Attendant or Carrier since his appointment as employee with the respondent-management. The workman never given any chance of complaint and there were no adverse remarks against him. The workman being fully eligible had applied and accordingly he was appointed as Housekeeping with the respondent-management as his services were required. The department had also put his name on muster roll and salary is drawn in his saving bank account No.6675237543 maintained with Indian Bank, NAC, Manimajra, Chandigarh. The workman had come to know from the reliable resources that his services along with six other workmen are going to be terminated and the workman is to be entrusted to the contractor. The workman along with other six workmen moved representation dated 23.11.2015. The workman had completed 1000 days on the date of his removal by the respondent-management from its office, which is more than 90 days. The workman is married and having responsibility of his family. The lives of the workman and his wards may be ruined, if his services are terminated, therefore, the workman may be reinstated in the interest of justice and future his wards. On 01.12.2015 the respondent-management told that the services of the workman along with six other workmen are no more required in the department and they have to join their services under contractor, if the workman / workmen want to work with the respondent-management. Therefore, all the workmen had given a representation dated 01.12.2015 to their department for not to remove them from their services, since they are working from the last so many years. The respondent-management had crossed all the limits and without assigning any reason and prior notice had terminated the services of above said workmen. The workman has not received monthly salary and he apprehends that the respondent-management might have got his signatures on such documents and makes him to come on the roads. The services of the workman are required by the respondent-management as evident from the fact that the respondent-management had deployed another person in his place through outsource / contractor. The respondent-management was not satisfied with the services of outsource employees. The workman and other six workmen had filed original application No.0060/01141-CH of 2015 titled Arvind & Others Versus Chandigarh Administration & Others before the learned Central Administrative Tribunal (CAT) which was drawn on 30.08.2017 with liberty to avail the remedies available to the workman. The termination of the workman by the respondent-management is totally illegal, *mala fide*, arbitrary, null & void and in gross violation of the statutory provisions of the ID Act

and against the principles of natural justice, equity and good conscious on the ground that the services of the workmen have been terminated on account of unfair labour practices, the act of terminating the services of the workmen are cryptic, the workmen were not supplied with the copies of relied upon documents which has caused material prejudice to them, no notice or retrenchment compensation was paid to the workman under Section 25-F of the ID Act, no preference is given to the workman at the time of termination, the workman were not afforded the opportunity of defence at any time, the other persons have been kept against the post of workmen and as such the verbal order of termination is violation of Section 25-H of the ID Act, no proper and valid inquiry was held against the workman and their services have been terminated against the principles of natural justice. Besides, the principle of 'first come last go' has been violated and has not been adopted by the respondent-management, though it is mandatory. Now the respondent-management again has victimized the workman and has terminated his services arbitrarily and illegally. Previously the workman had submitted demand notice dated 19.12.2017 to the respondent-management and before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. The conciliation Officer initiated conciliation proceedings in the matter of industrial dispute so raised by the workman but ultimately the conciliation proceedings fails on 13.03.2018 and the workman was advised to refer Section 2-A of the ID Act and accordingly this claim. Prayer is made that order of dismissal dated 01.12.2015 may be declared as illegal being in violation of labour law and principles of natural justice and the workman may be ordered to be reinstated in to service of the company with all service benefits including full back wages and continuity of service from the date of his illegal termination.

2. On notice, the respondent-management appeared through Law Officer and contested the claim by filing written statement dated 22.11.2018 filed on 07.02.2019 wherein preliminary submissions are made to the effect that the workman was hired as Housekeeping Staff by the employer/management directly on daily wages and was deployed at EDC Building (Entrepreneur Development Centre) at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. As a policy matter it was decided by the Central Authority of Chandigarh Administration vide letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 to appoint Category 'D' employees through an outsource agency for the betterment of this Category of employees in all the departments under the Chandigarh Administration and accordingly in the month of May 2013, after taking approval from the competent authority but the same could not be finalised due huge financial implications. Simultaneously, SPIC (Society for Promotion of IT in Chandigarh) a society working under the aegis of Department of IT i.e. management No.1 has also floated a tender for housekeeping and security staff for the Sampark Centres and IT Park needs. Accordingly, it was decided to obtain the services of the contractor selected by SPIC for contractual staff requirement of EDC Building. In the meantime, the services of these daily wages staff including the workman were approved to be extended / continued upto 30.11.2015. It was also decided that after selection of contractor by SPIC, the same contractor shall be utilised for supplying needs of the EDC Building and by bringing the workman including other daily wagers also under its role to benefit with ESI and EPF etc. After the due selection of contractor i.e. M/s Sherwal Enterprises by SPIC, the workman was asked to register with the said contractor for re-appointment and to avail benefits of deduction of ESI and EPF etc. from the salary. The workman refused to register with the contractor as is apparent from his letter dated 23.11.2015. Since the contractor was assigned the work of providing the staff and when the workman refused to register with the contractor, the contractor appointed its own staff in the EDC Building w.e.f. 01.12.2015. Accordingly, the services of the daily wages staff including the workman, who refused to get registered with the contractor appointed for the purpose as a policy matter left no option with the contractor but to arrange other resource to continue the services at EDC Building. It was the positive gesture on the part of the management department to advice the workman to register with the contractor for own benefits such as deduction of ESI, PF, gazetted holidays and Sunday off etc. However, the workman chosen not to register with the contractor. The first preference for appointment was given to the workman and co-workers who all were daily wage workers but they refused to register with the contractor.

3. Further on merits, it is admitted to the extent that the workman was hired by the employer / management for Housekeeping on daily wages and was further deployed at EDC Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. There is no sanctioned post with the employer/ management therefore the workman was hired against non-sanctioned post on daily ways. It is denied that the workman has been assigned other works such as Peon, Chowkidar, Attendant or a Carrier since appointment. He was only performing the work of Housekeeping. The workman was paid remuneration on the basis of number of working days. Accordingly, remuneration per month was credited to saving account. The workman was not in continuous employment with the employer / management as he was not paid for non-working days / holidays notified by the Chandigarh Administration from time to time. The employer-management never terminated the services of the workman. It is the workman, who refused to register with the contractor so he is not entitled for reinstatement. The department had paid the salary of the workman including arrear in full which is evident from the statement downloaded from the Composite Financial Accounting System of the Chandigarh Administration. Further similar taken is taken as taken in the preliminary submissions. The services of the workman were never terminated by the management. In fact the workman was given an opportunity for reemployment through the approved contractor which is legal and in compliance of letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 of the Chandigarh Administration to outsource services of category 'D' employees through a contractor. The workman failed to register with the approved contractor for re-employment and his services cannot be restored / reinstated at this stage being the fact that the approved contractor hired his own staff to provide housekeeping services for the employer / management. Hence, the workman is neither entitled to reinstatement nor to any back wages. Prayer is made that the present case may be dismissed with costs in the interest of justice.

4. The workman filed replication wherein contents of the written statement are denied as wrong except admitted facts of the claim statement and averments of claim statement are reiterated.

5. From the pleadings of the parties, following issues were framed *vide* order dated 04.07.2019:—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

6. In evidence the workman Arvind examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W11' and Mark 'WA' to Mark 'WC'.

Exhibit 'W1' is photocopy of saving bank account passbook of workman Arvind Kumar, bearing account No.6075237543 maintained with Indian Bank, Sector 7, Chandigarh incorporating entries from 15.11.2012 to 13.09.2015.

Exhibit 'W2' is copy of letter dated 23.11.2015 issued to SIT, Deluxe Building, Sector 9, Chandigarh from the workmen namely Shanker, Arvind, Rajinder, Palanival, Manjula, Salavi (Department - Housekeeping) and Balwinder (Department - Mali) EDC Staff, IT Park, Chandigarh relating to the subject of 'Non-shifting of Housekeeping Staff of EDC under Private Contractor'

Exhibit 'W3' is copy of adhaar card of Pooja W/o Arvind Kumar.

Exhibit 'W4' is copy of adhaar card of Arun Kumar S/o Arvind Kumar.

Exhibit 'W5' is copy of adhaar card of Aditya Kumar S/o Arvind Kumar.

Exhibit 'W6' is copy of report card relating to Arun Kumar S/o Arvind Kumar of Class VII-A, Session 2018-19 of Government Model High School, Sector 28-C, Chandigarh.

Exhibit 'W7' is copy of report card relating to Aditya S/o Arvind Kumar of Class VI, Session 2018-19 of Government Model High School, Sector 28-C, Chandigarh.

Exhibit 'W8' is copy of application dated 01.12.2015 jointly addressed from Arvind, Rajinder, Pallanival, Manjula, Salavi, Balwinder and Shanker to the Advisor to the Administrator, U.T. Secretariat, Sector 9, Chandigarh and Director Department of Information Technology, Sector 9, Chandigarh on the subject of application for expelling the applicants from their services for the last more than 3 ½ years without giving prior notice from the EDC Building, IT Park, Chandigarh and to request to continue them to work at EDC Building, IT Park, Chandigarh.

Exhibit 'W9' is copy of order dated 30.08.2017 passed by the Central Administrative Tribunal, Chandigarh Bench on OA No.060/01141/2015 titled as Arvind & Others Versus Chandigarh Administration and Another.

Exhibit 'W10' is copy of demand notice dated 19.12.2017 under Section 2(k) of the ID Act raised by the workman to the Director, Department of Information Technology, Chandigarh Administration, Sector 9, Chandigarh.

Exhibit 'W11' is failure report of conciliation proceedings bearing Memo No.959 dated 19.03.2018 issued from the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh to Arvind.

Mark 'WA' is copy of attendance register of Peon, Housekeeping, Gardner for the month of April 2013.

Mark 'WB' is copy of attendance register of Housekeeping, Gardner for the month of November 2015.

Mark 'WC' (document also exhibited *vide* Exhibit 'AW2/2') is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

7. The workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who brought the summoned record and proved documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

Exhibit 'AW2/1' is copy of attendance register from April 2013 to 30.11.2015 of Peon, Housekeeping including the name of the workman.

Exhibit 'AW2/2' is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

Exhibit 'AW2/3' copy of attendance register for the month of December 2015 of outsource employees / Housekeeping provided by M/s Sherwal Enterprises, deployed at EDC Building, Chandigarh.

On 23.09.2021 learned representative for the workman closed evidence in affirmative on behalf of the workman.

8. On the other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

Exhibit 'M1' is copy of authority letter bearing Memo No.306/IT/2021-22/1499 dated 02.11.2021 issued by Director Information Technology, Chandigarh Administration in favour of Shri Dalbir Singh - Senior Assistant authorising him to appear before the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh in IDR/35/2018 titled Arvind Versus Director Department of Information Technology, Chandigarh Administration.

Exhibit 'M2' is copy of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg.

Exhibit 'M3' is copy of statement of last salary paid to the workman (name of workman Arvind incorporated at serial No.4) for the month of November 2015 downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Exhibit 'M4' is copy of statement of arrears in the sum of ₹ 7,498/- paid to the workman (incorporating name of workman Arvind at serial No. 2) downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Mark 'A' is copy of application dated 23.11.2015 jointly addressed from Shanker, Arvind, Rajinder, Pallanival, Manjula, Salavi and Balwinder to the SIT, Deluxe Building, Chandigarh on the subject of request for non-shifting of housekeeping staff of EDC under private contractor.

On 30.11.2022 learned Law Officer closed the evidence on behalf of the management.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Arvind examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' the averments of claim statement in toto. AW1 supported his oral version with documents Exhibit 'W1' to 'W11' and Mark 'WA' to 'WC'.

12. For corroboration the workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who deposed that he is summoned witness working as Accountant in the Department of Information Technology since 2012. He had joined the department in the year 2001. He has brought the summoned record i.e. attendance register from April 2013 to 30.11.2015. Copy of same is Exhibit 'AW2/1' attendance register pertaining to 05.12.2012 to March 2013 is not available with the department. He has also brought the summoned record i.e. letter dated 21.03.2016 copy of which is Exhibit 'AW2/2'. He has brought the attendance register for the month of December 2015 i.e. Exhibit 'AW2/3'. Their department employed 9 employees through contractor M/ Sherwal Enterprises, SCO 68, First Floor, Sector 40-C, Chandigarh. The department is not paying salary to the employee mentioned in Exhibit 'AW2/3' and the department is making payment to the contractor. Prior to this the department used to pay salary directly into the account of workman in the present case.

13. On other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who vide his affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement and supported his oral version with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

14. From the oral as well as documentary evidence led by the parties, it comes out that there is no dispute between the parties with regard to the facts that in the year 2012-13 the workman was hired as Housekeeping Staff against non-sanctioned posts by the employer/management directly on daily wages and was deployed at Entrepreneur Development Centre (EDC) Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh and no appointment letter was ever issued to the workman. In this regard, the workman / AW1 in his cross-examination stated that he was appointed on dated 04.03.2013. No appointment letter was ever issued to him by the management. Admittedly, the attendance of the workman was marked in the muster roll. In this regard MW1 in his cross-examination admitted as correct that the attendance of the workman was marked in muster roll Exhibit 'AW2/1'. Undisputedly, the workman worked as Housekeeping with the management from 04.03.2013 to 30.11.2015. The workman has pleaded that on 01.12.2015 he was informed by the department that his services along with six other workmen are no more required in their department and they have to join its under the contractor if he wants to work with the department. The management in the written statement pleaded that the workman did not register with the approved contractor for re-employment and the contractor appointed his own staff in the EDC building w.e.f. 01.12.2015. The aforesaid pleas taken by the parties in their respective claim statement and written statement endorsed the fact that the workman worked up to 30.11.2015 with the management.

15. Learned representative for the workman referred cross-examination of MW1 Dalbir Singh wherein he has admitted as correct that the workman was employee of the department of Information Technology on daily wage basis for its EDC Building at IT Park. MW1 admitted as correct that there is no complaint against the workman in their record regarding he has not abided by the directions of his superiors. MW1 in his cross-examination further stated that no written notice was given to the workman. MW1 denied the suggestion as wrong that the department has wrongly and illegally terminated the services of the workman without following the provisions of the ID Act. MW1 in his cross-examination stated that on 1st December, 2015 the department has engaged the services of Sherwal Enterprises for rendering the services in the EDC Building. At present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join. By making reference to the aforesaid version of MW1 learned representative for the workman contended that the services of the workman are terminated in view of letter dated 07.11.2014 / Exhibit 'M2'. The management has wrongly interpreted the contents of Exhibit 'M2' according to which all the Group 'D' posts as and when fallen vacant are to be filled up through outsourcing after following proper procedure. In the present case when the letter dated 07.11.2014 / Exhibit 'M2' was issued, at that time the workman was already working against the post, therefore, the said post could not be considered as vacant. But the management / department after removing the workman from the post, deployed another employee on the same post throughout source contractor which show that there is still requirement of the post from which the workman has been removed. Moreover, during his tenure the workman served the management / department in a satisfactory manner and there was no complaint against his conduct.

16. On the other hand, learned Law Officer for the management has contended that the services of the workman were not terminated. In view of policy of the Government formulated vide letter dated 07.11.2014 / Exhibit 'M2', there was requirement to fill all the Group 'D' post as and when fallen vacant through outsourcing after following proper procedure and in pursuance of the said letter Exhibit 'M2', the workman was given option to join through outsource contractor to which the workman refused and thereafter w.e.f. 01.12.2015 the contractual employees were deployed against the vacant post through outsource contractor M/s Sherwal Enterprises.

17. To my opinion for better appreciation of policy of the Government, it would be apposite to reproduce the contents of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg. / Exhibit 'M2':-

"I am directed to refer you on the subject noted above and to state that keeping in view the Punjab Government instructions issued vide No.15/74/2010-4PP3/391 dated 18.03.2021 and recommendations of 6th Central Pay Commission report, it has been decided by this Administration that all the Group 'D' posts, as when fallen vacant, are filled up through outsourcing after following proper procedure."

18. In the present case, the workman has failed to controvert the fact that he was working as daily wager Housekeeping against non-sanctioned vacant post with the respondent-management. By virtue of the instructions issued vide letter Exhibit 'M2' it was incumbent upon the department management to deploy an outsource employee against the said post instead of a daily wage workman. Before deploying an outsource employee against the said post, the department / management provided fair opportunity to the workman to apply through the contractor if he willing to continue to work on the said post but it is the workman who refused to accept the offer. In this regard the workman / AW1 in his cross-examination admitted as correct that the management offered him to join through contractor before he left from the management. The workman own witness AW2 Subhash Chander in his cross-examination admitted as correct that they had offered to the workman to join through outsource agency but the workman refused to work under the contractor. MW1 in his

cross-examination stated that at present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join.

19. The plea taken by the workman in his cross-examination that he do not know whether Chandigarh Administration had framed policy to outsource for Group 'D' posts is devoid of merits because the fact being not specifically denied is deemed to be admitted under the law. Moreover, the letter dated 23.11.2015 /Exhibit 'W2' is addressed from the workmen including the name of the workman Arvind at serial No.2 to SIT Deluxe Building, Chandigarh and as per the contents of said letters the workman requested that according to new Government policy from Head of Department of EDC Building, they are being shifted under private contractor but they do not want to work under the private contractor and further requested not to shift them and keep them treating employees of EDC Building as previously and they mentioned the three reasons for which they are not willing to work under the private contractor. The said three reasons are reproduced as below :—

- "1) If we are working under private contractor then they can terminate us any time.
- 2) DC rates are also decrease by them.
- 3) We are not receiving the salary on time."

From the above mentioned contents of Exhibit 'W2' it is duly proved on record that the workman is very much in knowledge of the new Government policy / instructions issued through letter dated 07.11.2014 and this fact falsifies the version of AW1 that he has no knowledge whether Chandigarh Administration had framed policy to outsource for Group 'D' posts. The contents of letter Exhibit 'W2' further supports the plea of the management that the workman was offered to work through the contractor to which the workman refused.

20. In view of the reasons recorded above, the termination of the workman is not illegal in any manner rather the workman himself left the job by refusing to accept the offer to join through outsource agency / contractor as per instructions of the Government dated 07.11.2014 / Exhibit 'M2'.

21. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

22. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . .,

The 30th November, 2022.

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 8th February, 2023

No. 13/1/9935-HII(2)-2023/1750.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 37/2018 dated 30.11.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

MANJULA, AGED 30 YEARS, W/O SHRI RAJINDER, R/O HOUSE NO. 97, VILLAGE NADA SAHIB, TEHSIL PANCHKULA, DISTRICT PANCHKULA, HARYANA (9915771946) (Workman)

AND

THE DIRECTOR, DEPARTMENT OF INFORMATION TECHNOLOGY, CHANDIGARH ADMINISTRATION, SECTOR 9, CHANDIGARH. (Management)

AWARD

1. Manjula, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman had joined the services on 06.10.2012 as Housekeeping with the respondent-management and posted at EDC Building situated at IT Park, Chandigarh. The workman has been carrying on her work as assigned by her superiors with the respondent-management from time to time. During her tenure, her work and conduct has already been found to be satisfactory. The workman has been performing various works which were assigned by her department or her superior irrespective of the work offered to her as the workman was doing work as Peon, Chowkidar, Attendant or Carrier since her appointment as employee with the respondent-management. The workman never given any chance of complaint and there were no adverse remarks against him. The workman being fully eligible had applied and accordingly she was appointed as Housekeeping with the respondent-management as her services were required. The department had also put her name on muster roll and salary is drawn in her saving bank account No.6077332321 maintained with Indian Bank, NAC, Manimajra, Chandigarh. The workman had come to know from the reliable resources that her services along with six other workmen are going to be terminated and the workman is to be entrusted to the contractor. The workman along with other six workmen moved representation dated 23.11.2015. The workman had completed 1150 days on the date of her removal by the respondent-management from its office, which is more than 90 days. The workman is married and having responsibility of her family. The lives of the workman and her wards may be ruined, if her services are terminated, therefore, the workman may be reinstated in the interest of justice and future her wards. On 01.12.2015 the respondent-management told that the services of the workman along with six other workmen are no more required in the department and they have to join their services under contractor, if the workman / workmen want to work with the respondent-management. Therefore, all the workmen had given a representation dated 01.12.2015 to their department for not to remove them from their services, since they are working from the last so many years. The respondent-management had crossed all the limits and without assigning any reason and prior notice had terminated the services of above said workmen. The workman has not received monthly salary and she apprehends that the respondent-management might have got her signatures on such documents and makes her to come on the roads. The services of the workman are required by the respondent-management as evident from the fact that the respondent-management had deployed another person in her place through outsource / contractor. The respondent-management was not satisfied with the services of outsource employees. The workman and other six workmen had filed original application No.0060/01141-CH of 2015 titled Arvind & Others Versus Chandigarh Administration & Others before the learned Central Administrative Tribunal (CAT) which was drawn on 30.08.2017 with liberty to avail the remedies available to

the workman. The termination of the workman by the respondent-management is totally illegal, *mala fide*, arbitrary, null & void and in gross violation of the statutory provisions of the ID Act and against the principles of natural justice, equity and good conscious on the ground that the services of the workmen have been terminated on account of unfair labour practices, the act of terminating the services of the workmen are cryptic, the workmen were not supplied with the copies of relied upon documents which has caused material prejudice to them, no notice or retrenchment compensation was paid to the workman under Section 25-F of the ID Act, no preference is given to the workman at the time of termination, the workman were not afforded the opportunity of defence at any time, the other persons have been kept against the post of workmen and as such the verbal order of termination is violation of Section 25-H of the ID Act, no proper and valid inquiry was held against the workman and their services have been terminated against the principles of natural justice. Besides, the principle of 'first come last go' has been violated and has not been adopted by the respondent-management, though it is mandatory. Now the respondent-management again has victimized the workman and has terminated her services arbitrarily and illegally. Previously the workman had submitted demand notice dated 19.12.2017 to the respondent-management and before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. The conciliation Officer initiated conciliation proceedings in the matter of industrial dispute so raised by the workman but ultimately the conciliation proceedings fails on 13.03.2018 and the workman was advised to refer Section 2-A of the ID Act and accordingly this claim. Prayer is made that order of dismissal dated 01.12.2015 may be declared as illegal being in violation of labour law and principles of natural justice and the workman may be ordered to be reinstated in to service of the company with all service benefits including full back wages and continuity of service from the date of her illegal termination.

2. On notice, the respondent-management appeared through Law Officer and contested the claim by filing written statement dated 22.11.2018 filed on 07.02.2019 wherein preliminary submissions are made to the effect that the workman was hired as Housekeeping Staff by the employer/management directly on daily wages and was deployed at EDC Building (Entrepreneur Development Centre) at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. As a policy matter it was decided by the Central Authority of Chandigarh Administration *vide* letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 to appoint Category 'D' employees through an outsource agency for the betterment of this Category of employees in all the departments under the Chandigarh Administration and accordingly in the month of May 2013, after taking approval from the competent authority but the same could not be finalised due huge financial implications. Simultaneously, SPIC (Society for Promotion of IT in Chandigarh) a society working under the aegis of Department of IT i.e. management No.1 has also floated a tender for housekeeping and security staff for the Sampark Centres and IT Park needs. Accordingly, it was decided to obtain the services of the contractor selected by SPIC for contractual staff requirement of EDC Building. In the meantime, the services of these daily wages staff including the workman were approved to be extended / continued upto 30.11.2015. It was also decided that after selection of contractor by SPIC, the same contractor shall be utilised for supplying needs of the EDC Building and by bringing the workman including other daily wagers also under its role to benefit with ESI and EPF etc. After the due selection of contractor i.e. M/s Sherwal Enterprises by SPIC, the workman was asked to register with the said contractor for re-appointment and to avail benefits of deduction of ESI and EPF etc. from the salary. The workman refused to register with the contractor as is apparent from her letter dated 23.11.2015. Since the contractor was assigned the work of providing the staff and when the workman refused to register with the contractor, the contractor appointed its own staff in the EDC Building w.e.f. 01.12.2015. Accordingly, the services of the daily wages staff including the workman, who refused to get registered with the contractor appointed for the purpose as a policy matter left no option with the contractor but to arrange other resource to continue the services at EDC Building. It was the positive gesture on the part of the management department to advice the workman to register with the contractor for own benefits such as deduction of ESI, PF, gazetted holidays and Sunday off etc. However, the workman chosen not to register with the contractor. The first preference for appointment was given to the workman and co-workers who all were daily wage workers but they refused to register with the contractor.

3. Further on merits, it is admitted to the extent that the workman was hired by the employer / management for Housekeeping on daily wages and was further deployed at EDC Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. There is no sanctioned post with the employer/ management therefore the workman was hired against non-sanctioned post on daily ways. It is denied that the workman has been assigned other works such as Peon, Chowkidar, Attendant or a Carrier since appointment. She was only performing the work of Housekeeping. The workman was paid remuneration on the basis of number of working days. Accordingly, remuneration per month was credited to saving account. The workman was not in continuous employment with the employer / management as she was not paid for non-working days / holidays notified by the Chandigarh Administration from time to time. The employer-management never terminated the services of the workman. It is the workman, who refused to register with the contractor so she is not entitled for reinstatement. The department had paid the salary of the workman including arrear in full which is evident from the statement downloaded from the Composite Financial Accounting System of the Chandigarh Administration. Further similar taken is taken as taken in the preliminary submissions. The services of the workman were never terminated by the management. In fact the workman was given an opportunity for reemployment through the approved contractor which is legal and in compliance of letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 of the Chandigarh Administration to outsource services of category 'D' employees through a contractor. The workman failed to register with the approved contractor for re-employment and her services cannot be restored / reinstated at this stage being the fact that the approved contractor hired her own staff to provide housekeeping services for the employer / management. Hence, the workman is neither entitled to reinstatement nor to any back wages. Prayer is made that the present case may be dismissed with costs in the interest of justice.

4. The workman filed replication wherein contents of the written statement are denied as wrong except admitted facts of the claim statement and averments of claim statement are reiterated.

5. From the pleadings of the parties, following issues were framed *vide* order dated 04.07.2019 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Relief.

6. In evidence the workman Manjula examined himself as AW1 and tendered into evidence her affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W9' and Mark 'WA' to Mark 'WC'.

Exhibit 'W1' is photocopy of saving bank account passbook of workman Manjula, bearing account No.6077332321 maintained with Indian Bank, Manimajra, Chandigarh incorporating entries from 12.06.2013 to 28.12.2013 and 10.11.2015 to 12.05.2016.

Exhibit 'W2' is copy of letter dated 23.11.2015 issued to SIT, Deluxe Building, Sector 9, Chandigarh from the workmen namely Shanker, ARvind, Rajinder, Palanival, Manjula, Salavi (Department - Housekeeping) and Balwinder (Department - Mali) EDC Staff, IT Park, Chandigarh relating to the subject of 'Non-shifting of Housekeeping Staff of EDC under Private Contractor'

Exhibit 'W3' is copy of adhaar card of Devi D/o Rajinder.

Exhibit 'W4' is copy of adhaar card of Malar Guddi D/o Rajinder.

Exhibit 'W5' is copy of adhaar card of Rahul S/o Rajinder.

Exhibit 'W6' is copy of application dated 01.12.2015 jointly addressed from Arvind, Rajinder, Pallanival, Manjula, Salavi, Balwinder and Shanker to the Advisor to the Administrator, U.T. Secretariat, Sector 9, Chandigarh and Director Department of Information Technology, Sector 9, Chandigarh on the subject of application for expelling the applicants from their services for the last more than 3 ½ years without giving prior notice from the EDC Building, IT Park, Chandigarh and to request to continue them to work at EDC Building, IT Park, Chandigarh.

Exhibit 'W7' is copy of order dated 30.08.2017 passed by the Central Administrative Tribunal, Chandigarh Bench on OA No.060/01141/2015 titled as Arvind & Others Versus Chandigarh Administration and Another.

Exhibit 'W8' is copy of demand notice dated 19.12.2017 under Section 2(k) of the ID Act raised by the workman to the Director, Department of Information Technology, Chandigarh Administration, Sector 9, Chandigarh.

Exhibit 'W9' is failure report of conciliation proceedings bearing Memo No.965 dated 19.03.2018 issued from the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh to Manjula.

Mark 'WA' is copy of attendance register of Peon, Housekeeping, Gardner for the month of April 2013.

Mark 'WB' is copy of attendance register of Housekeeping, Gardner for the month of November 2015.

Mark 'WC' (document also exhibited vide Exhibit 'AW2/2') is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

7. The workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who brought the summoned record and proved documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

Exhibit 'AW2/1' is copy of attendance register from April 2013 to 30.11.2015 of Peon, Housekeeping including the name of the workman.

Exhibit 'AW2/2' is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

Exhibit 'AW2/3' copy of attendance register for the month of December 2015 of outsource employees / Housekeeping provided by M/s Sherwal Enterprises, deployed at EDC Building, Chandigarh.

On 23.09.2021 learned representative for the workman closed evidence in affirmative on behalf of the workman.

8. On the other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

Exhibit 'M1' is copy of authority letter bearing Memo No.306/IT/2021-22/1498 dated 02.11.2021 issued by Director Information Technology, Chandigarh Administration in favour of Shri Dalbir Singh - Senior Assistant authorising him to appear before the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh in IDR/37/2018 titled Manjula Versus Director Department of Information Technology, Chandigarh Administration.

Exhibit 'M2' is copy of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg.

Exhibit 'M3' is copy of statement of last salary paid to the workman (name of workman Manjula incorporated at serial No.11) for the month of November 2015 downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Exhibit 'M4' is copy of statement of arrears in the sum of ₹ 7,623/- paid to the workman (incorporating name of workman Manjula at serial No. 1) downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Mark 'A' is copy of application dated 23.11.2015 jointly addressed from Shanker, Arvind, Rajinder, Pallanival, Manjula, Salavi and Balwinder to the SIT, Deluxe Building, Chandigarh on the subject of request for non-shifting of housekeeping staff of EDC under private contractor.

On 30.11.2022 learned Law Officer closed the evidence on behalf of the management.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Manjula examined herself as AW1 and *vide* her affidavit Exhibit 'AW1/A' the averments of claim statement in toto. AW1 supported her oral version with documents Exhibit 'W1' to 'W9' and Mark 'WA' to 'WC'.

12. For corroboration the workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who deposed that he is summoned witness working as Accountant in the Department of Information Technology since 2012. He had joined the department in the year 2001. He has brought the summoned record i.e. attendance register from April 2013 to 30.11.2015. Copy of same is Exhibit 'AW2/1' attendance register pertaining to 05.12.2012 to March 2013 is not available with the department. He has also brought the summoned record i.e. letter dated 21.03.2016 copy of which is Exhibit 'AW2/2'. He has brought the attendance register for the month of December 2015 i.e. Exhibit 'AW2/3'. Their department employed 9 employees through contractor M/ Sherwal Enterprises, SCO 68, First Floor, Sector 40-C, Chandigarh. The department is not paying salary to the employee mentioned in Exhibit 'AW2/3' and the department is making payment to the contractor. Prior to this the department used to pay salary directly into the account of workman in the present case.

13. On other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who *vide* his affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement and supported his oral version with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

14. From the oral as well as documentary evidence led by the parties, it comes out that there is no dispute between the parties with regard to the facts that in the year 2012-13 the workman was hired as Housekeeping Staff against non-sanctioned posts by the employer/management directly on daily wages and was deployed at Entrepreneur Development Centre (EDC) Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh and no appointment letter was ever issued to the workman. In this regard, the workman / AW1 in her cross-examination stated that she was appointed on dated 06.10.2012. No appointment letter was ever issued to her by the management. Admittedly, the attendance of the workman was marked in the muster roll. In this regard MW1 in his cross-examination admitted as correct that the attendance of the workman was marked in muster roll Exhibit 'AW2/1'. Undisputedly, the workman worked as Housekeeping with the management from 06.10.2012 to 30.11.2015. The workman has pleaded that on 01.12.2015 she was informed by the department that her services along with six other workmen are no more required in their department and they have to join its under the contractor if she wants to work with the department. The management in the written statement pleaded that the workman did not register with the approved contractor for re-employment and the contractor appointed his own staff in the EDC building w.e.f. 01.12.2015. The aforesaid pleas taken by the parties in their respective claim statement and written statement endorsed the fact that the workman worked up to 30.11.2015 with the management.

15. Learned representative for the workman referred cross-examination of MW1 Dalbir Singh wherein he has admitted as correct that the workman was employee of the department of Information Technology on daily wage basis for its EDC Building at IT Park. MW1 admitted as correct that there is no complaint against

the workman in their record regarding she has not abided by the directions of her superiors. MW1 in his cross-examination further stated that no written notice was given to the workman. MW1 denied the suggestion as wrong that the department has wrongly and illegally terminated the services of the workman without following the provisions of the ID Act. MW1 in his cross-examination stated that on 1st December, 2015 the department has engaged the services of Sherwal Enterprises for rendering the services in the EDC Building. At present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join. By making reference to the aforesaid version of MW1 learned representative for the workman contended that the services of the workman are terminated in view of letter dated 07.11.2014 / Exhibit 'M2'. The management has wrongly interpreted the contents of Exhibit 'M2' according to which all the Group 'D' posts as and when fallen vacant are to be filled up through outsourcing after following proper procedure. In the present case when the letter dated 07.11.2014 / Exhibit 'M2' was issued, at that time the workman was already working against the post, therefore, the said post could not be considered as vacant. But the management / department after removing the workman from the post, deployed another employee on the same post throughout source contractor which show that there is still requirement of the post from which the workman has been removed. Moreover, during her tenure the workman served the management / department in a satisfactory manner and there was no complaint against her conduct.

16. On the other hand, learned Law Officer for the management has contended that the services of the workman were not terminated. In view of policy of the Government formulated *vide* letter dated 07.11.2014 / Exhibit 'M2', there was requirement to fill all the Group 'D' post as and when fallen vacant through outsourcing after following proper procedure and in pursuance of the said letter Exhibit 'M2', the workman was given option to join through outsource contractor to which the workman refused and thereafter w.e.f. 01.12.2015 the contractual employees were deployed against the vacant post through outsource contractor M/s Sherwal Enterprises.

17. To my opinion for better appreciation of policy of the Government, it would be apposite to reproduce the contents of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg. / Exhibit 'M2' :—

"I am directed to refer you on the subject noted above and to state that keeping in view the Punjab Government instructions issued vide No.15/74/2010-4PP3/391 dated 18.03.2021 and recommendations of 6th Central Pay Commission report, it has been decided by this Administration that all the Group 'D' posts, as when fallen vacant, are filled up through outsourcing after following proper procedure."

18. In the present case, the workman has failed to controvert the fact that she was working as daily wager Housekeeping against non-sanctioned vacant post with the respondent-management. By virtue of the instructions issued *vide* letter Exhibit 'M2' it was incumbent upon the department management to deploy an outsource employee against the said post instead of a daily wage workman. Before deploying an outsource employee against the said post, the department / management provided fair opportunity to the workman to apply through the contractor if she willing to continue to work on the said post but it is the workman who refused to accept the offer. In this regard the workman / AW1 in her cross-examination admitted as correct that the management offered her to join through contractor before she left from the management. The workman own witness AW2 Subhash Chander in his cross-examination admitted as correct that they had offered to the workman to join through outsource agency but the workman refused to work under the contractor. MW1 in his cross-examination stated that at present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join.

19. The plea taken by the workman in her cross-examination that she do not know whether Chandigarh Administration had framed policy to outsource for Group 'D' posts is devoid of merits because the fact being not specifically denied is deemed to be admitted under the law. Moreover, the letter dated 23.11.2015 /Exhibit 'W2' is addressed from the workmen including the name of the workman Manjula at serial No.5 to SIT Deluxe Building, Chandigarh and as per the contents of said letters the workman requested that according to new Government policy from Head of Department of EDC Building, they are being shifted under private contractor but they do not want to work under the private contractor and further requested not to shift them and keep them treating employees of EDC Building as previously and they mentioned the three reasons for which they are not willing to work under the private contractor. The said three reasons are reproduced as below :—

- "1) If we are working under private contractor then they can terminate us any time.
- 2) DC rates are also decrease by them.
- 3) We are not receiving the salary on time."

From the above mentioned contents of Exhibit 'W2' it is duly proved on record that the workman is very much in knowledge of the new Government policy / instructions issued through letter dated 07.11.2014 and this fact falsifies the version of AW1 that she has no knowledge whether Chandigarh Administration had framed policy to outsource for Group 'D' posts. The contents of letter Exhibit 'W2' further supports the plea of the management that the workman was offered to work through the contractor to which the workman refused.

20. In view of the reasons recorded above, the termination of the workman is not illegal in any manner rather the workman himself left the job by refusing to accept the offer to join through outsource agency / contractor as per instructions of the Government dated 07.11.2014 / Exhibit 'M2'.

21. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

22. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 30th November, 2022.

(Sd.). . .,

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 8th February, 2023

No. 13/1/9931-HII(2)-2023/1752.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 39/2018 dated 30.11.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

RAJINDER, AGED 32 YEARS, S/O SHRI MANIKAM, R/O HOUSE NO. 197, VILLAGE NADA SAHIB, TEHSIL PANCHKULA, DISTRICT PANCHKULA, HARYANA (Workman)

AND

THE DIRECTOR, DEPARTMENT OF INFORMATION TECHNOLOGY, CHANDIGARH ADMINISTRATION, SECTOR 9, CHANDIGARH. (Management)

AWARD

1. Rajinder, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman had joined the services on 06.10.2012 as Housekeeping with the respondent-management and posted at EDC Building situated at IT Park, Chandigarh. The workman has been carrying on his work as assigned by his superiors with the respondent-management from time to time. During his tenure, his work and conduct has already been found to be satisfactory. The workman has been performing various works which were assigned by his department or his superior irrespective of the work offered to him as the workman was doing work as Peon, Chowkidar, Attendant or Carrier since his appointment as employee with the respondent-management. The workman never given any chance of complaint and there were no adverse remarks against him. The workman being fully eligible had applied and accordingly he was appointed as Housekeeping with the respondent-management as his services were required. The department had also put his name on muster roll and salary is drawn in his saving bank account No.6158408585 maintained with Indian Bank, NAC, Manimajra, Chandigarh. The workman had come to know from the reliable resources that his services along with six other workmen are going to be terminated and the workman is to be entrusted to the contractor. The workman along with other six workmen moved representation dated 23.11.2015. The workman had completed 1150 days on the date of his removal by the respondent-management from its office, which is more than 90 days. The workman is married and having responsibility of his family. The lives of the workman and his wards may be ruined, if his services are terminated, therefore, the workman may be reinstated in the interest of justice and future his wards. On 01.12.2015 the respondent-management told that the services of the workman along with six other workmen are no more required in the department and they have to join their services under contractor, if the workman / workmen want to work with the respondent-management. Therefore, all the workmen had given a representation dated 01.12.2015 to their department for not to remove them from their services, since they are working from the last so many years. The respondent-management had crossed all the limits and without assigning any reason and prior notice had terminated the services of above said workmen. The workman has not received monthly salary and he apprehends that the respondent-management might have got his signatures on such documents and makes him to come on the roads. The services of the workman are required by the respondent-management as evident from the fact that the respondent-management had deployed another person in his place through outsource / contractor. The respondent-management was not satisfied with the services of outsource employees. The workman and other six workmen had filed original application No.0060/01141-CH of 2015 titled Arvind & Others Versus Chandigarh Administration & Others before the

learned Central Administrative Tribunal (CAT) which was drawn on 30.08.2017 with liberty to avail the remedies available to the workman. The termination of the workman by the respondent-management is totally illegal, malafide, arbitrary, null & void and in gross violation of the statutory provisions of the ID Act and against the principles of natural justice, equity and good conscious on the ground that the services of the workmen have been terminated on account of unfair labour practices, the act of terminating the services of the workmen are cryptic, the workmen were not supplied with the copies of relied upon documents which has caused material prejudice to them, no notice or retrenchment compensation was paid to the workman under Section 25-F of the ID Act, no preference is given to the workman at the time of termination, the workman were not afforded the opportunity of defence at any time, the other persons have been kept against the post of workmen and as such the verbal order of termination is violation of Section 25-H of the ID Act, no proper and valid inquiry was held against the workman and their services have been terminated against the principles of natural justice. Besides, the principle of 'first come last go' has been violated and has not been adopted by the respondent-management, though it is mandatory. Now the respondent-management again has victimized the workman and has terminated his services arbitrarily and illegally. Previously the workman had submitted demand notice dated 19.12.2017 to the respondent-management and before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. The conciliation Officer initiated conciliation proceedings in the matter of industrial dispute so raised by the workman but ultimately the conciliation proceedings fails on 13.03.2018 and the workman was advised to refer Section 2-A of the ID Act and accordingly this claim. Prayer is made that order of dismissal dated 01.12.2015 may be declared as illegal being in violation of labour law and principles of natural justice and the workman may be ordered to be reinstated in to service of the company with all service benefits including full back wages and continuity of service from the date of his illegal termination.

2. On notice, the respondent-management appeared through Law Officer and contested the claim by filing written statement dated 22.11.2018 filed on 07.02.2019 wherein preliminary submissions are made to the effect that the workman was hired as Housekeeping Staff by the employer/management directly on daily wages and was deployed at EDC Building (Entrepreneur Development Centre) at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. As a policy matter it was decided by the Central Authority of Chandigarh Administration vide letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 to appoint Category 'D' employees through an outsource agency for the betterment of this Category of employees in all the departments under the Chandigarh Administration and accordingly in the month of May 2013, after taking approval from the competent authority but the same could not be finalised due huge financial implications. Simultaneously, SPIC (Society for Promotion of IT in Chandigarh) a society working under the aegis of Department of IT i.e. management No.1 has also floated a tender for housekeeping and security staff for the Sampark Centres and IT Park needs. Accordingly, it was decided to obtain the services of the contractor selected by SPIC for contractual staff requirement of EDC Building. In the meantime, the services of these daily wages staff including the workman were approved to be extended / continued upto 30.11.2015. It was also decided that after selection of contractor by SPIC, the same contractor shall be utilised for supplying needs of the EDC Building and by bringing the workman including other daily wagers also under its role to benefit with ESI and EPF etc. After the due selection of contractor i.e. M/s Sherwal Enterprises by SPIC, the workman was asked to register with the said contractor for re-appointment and to avail benefits of deduction of ESI and EPF etc. from the salary. The workman refused to register with the contractor as is apparent from his letter dated 23.11.2015. Since the contractor was assigned the work of providing the staff and when the workman refused to register with the contractor, the contractor appointed its own staff in the EDC Building w.e.f. 01.12.2015. Accordingly, the services of the daily wages staff including the workman, who refused to get registered with the contractor appointed for the purpose as a policy matter left no option with the contractor but to arrange other resource to continue the services at EDC Building. It was the positive gesture on the part of the management department to advice the workman to register with the contractor for own benefits such as

deduction of ESI, PF, gazetted holidays and Sunday off etc. However, the workman chosen not to register with the contractor. The first preference for appointment was given to the workman and co-workers who all were daily wage workers but they refused to register with the contractor.

3. Further on merits, it is admitted to the extent that the workman was hired by the employer / management for Housekeeping on daily wages and was further deployed at EDC Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh in the year 2012-13. There is no sanctioned post with the employer/ management therefore the workman was hired against non-sanctioned post on daily ways. It is denied that the workman has been assigned other works such as Peon, Chowkidar, Attendant or a Carrier since appointment. He was only performing the work of Housekeeping. The workman was paid remuneration on the basis of number of working days. Accordingly, remuneration per month was credited to saving account. The workman was not in continuous employment with the employer / management as he was not paid for non-working days / holidays notified by the Chandigarh Administration from time to time. The employer-management never terminated the services of the workman. It is the workman, who refused to register with the contractor so he is not entitled for reinstatement. The department had paid the salary of the workman including arrear in full which is evident from the statement downloaded from the Composite Financial Accounting System of the Chandigarh Administration. Further similar taken is taken as taken in the preliminary submissions. The services of the workman were never terminated by the management. In fact the workman was given an opportunity for reemployment through the approved contractor which is legal and in compliance of letter No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 of the Chandigarh Administration to outsource services of category 'D' employees through a contractor. The workman failed to register with the approved contractor for re-employment and his services cannot be restored / reinstated at this stage being the fact that the approved contractor hired his own staff to provide housekeeping services for the employer / management. Hence, the workman is neither entitled to reinstatement nor to any back wages. Prayer is made that the present case may be dismissed with costs in the interest of justice.

4. The workman filed replication wherein contents of the written statement are denied as wrong except admitted facts of the claim statement and averments of claim statement are reiterated.

5. From the pleadings of the parties, following issues were framed vide order dated 04.07.2019 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

6. In evidence the workman Rajinder examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W9' and Mark 'WA' to Mark 'WC'.

Exhibit 'W1' is photocopy of saving bank account passbook of workman Rajinder, bearing account No.6158408585 maintained with Indian Bank, Sector 7, Chandigarh incorporating entries from 31.01.2014 to 08.07.2014 and 09.09.2015 to 09.12.2015.

Exhibit 'W2' is copy of letter dated 23.11.2015 issued to SIT, Deluxe Building, Sector 9, Chandigarh from the workmen namely Shanker, Arvind, Rajinder, Palanival, Manjula, Salavi (Department - Housekeeping) and Balwinder (Department - Mali) EDC Staff, IT Park, Chandigarh relating to the subject of 'Non-shifting of Housekeeping Staff of EDC under Private Contractor'

Exhibit 'W3' is copy of adhaar card of Devi D/o Rajinder.

Exhibit 'W4' is copy of adhaar card of Malar Guddi D/o Rajinder.

Exhibit 'W5' is copy of adhaar card of Rahul S/o Rajinder.

Exhibit 'W6' is copy of application dated 01.12.2015 jointly addressed from Arvind, Rajinder, Pallanival, Manjula, Salavi, Balwinder and Shanker to the Advisor to the Administrator, U.T. Secretariat, Sector 9, Chandigarh and Director Department of Information Technology, Sector 9, Chandigarh on the subject of application for expelling the applicants from their services for the last more than 3 ½ years without giving prior notice from the EDC Building, IT Park, Chandigarh and to request to continue them to work at EDC Building, IT Park, Chandigarh.

Exhibit 'W7' is copy of order dated 30.08.2017 passed by the Central Administrative Tribunal, Chandigarh Bench on OA No.060/01141/2015 triald as Arvind & Others Versus Chandigarh Administration and Another.

Exhibit 'W8' is copy of demand notice dated 19.12.2017 under Section 2(k) of the ID Act raised by the workman to the Director, Department of Information Technology, Chandigarh Administration, Sector 9, Chandigarh.

Exhibit 'W9' is notice bearing Endorsement No.28 dated 03.01.2018 issued to the Director, Department of Information Technology, Chandigarh Administration, Sector 9, Chandigarh by the Assistant Labour Commissioner-cum-Conciliation Officer, Chandigarh regarding demand notice under Section 2-A of the ID Act raised by Rajinder, S/o Shri Manikam, R/o House No.197, Village Nada Sahib, Tehsil Panchkula.

Mark 'WA' is copy of attendance register of Peon, Housekeeping, Gardner for the month of April 2013.

Mark 'WB' is copy of attendance register of Housekeeping, Gardner for the month of November 2015.

Mark 'WC' (document also exhibited vide Exhibit 'AW2/2') is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

7. The workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who brought the summoned record and proved documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

Exhibit 'AW2/1' is copy of attendance register from April 2013 to 30.11.2015 of Peon, Housekeeping including the name of the workman.

Exhibit 'AW2/2' is copy of letter Memo No.716 dated 21.03.2016 addressed from EDC Manager, Information Technology, Chandigarh Administration to CH-SPIC, PEC Campus, Sector 12, Chandigarh relating to the subject regarding work of Sherwal Enterprises is not satisfactory.

Exhibit 'AW2/3' copy of attendance register for the month of December 2015 of outsource employees / Housekeeping provided by M/s Sherwal Enterprises, deployed at EDC Building, Chandigarh.

On 23.09.2021 learned representative for the workman closed evidence in affirmative on behalf of the workman.

8. On the other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

Exhibit 'M1' is copy of authority letter bearing Memo No.306/IT/2021-22/1502 dated 02.11.2021 issued by Director Information Technology, Chandigarh Administration in favour of Shri Dalbir Singh - Senior Assistant authorising him to appear before the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh in IDR/39/2018 titled Rajinder Versus Director Department of Information Technology, Chandigarh Administration.

Exhibit 'M2' is copy of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg.

Exhibit 'M3' is copy of statement of last salary paid to the workman (name of workman Rajinder incorporated at serial No.9) for the month of November 2015 downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Exhibit 'M4' is copy of statement of arrears paid to the workman (name of workman Rajinder incorporated at serial No.3) in December 2015 downloaded from the Composite Financial Accounting System of the Chandigarh Administration.

Mark 'A' is copy of application dated 23.11.2015 jointly addressed from Shanker, Arvind, Rajinder, Pallanival, Manjula, Salavi and Balwinder to the SIT, Deluxe Building, Chandigarh on the subject of request for non-shifting of housekeeping staff of EDC under private contractor.

On 30.11.2022 learned Law Officer closed the evidence on behalf of the management.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise findings are as below :—

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Rajinder examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' the averments of claim statement in toto. AW1 supported his oral version with documents Exhibit 'W1' to 'W9' and Mark 'WA' to 'WC'.

12. For corroboration the workman examined AW2 Subhash Chander - Accountant, Department of Information Technology, U.T. Chandigarh, who deposed that he is summoned witness working as Accountant in the Department of Information Technology since 2012. He had joined the department in the year 2001. He has brought the summoned record i.e. attendance register from April 2013 to 30.11.2015. Copy of same is Exhibit 'AW2/1' attendance register pertaining to 05.12.2012 to March 2013 is not available with the department. He has also brought the summoned record i.e. letter dated 21.03.2016 copy of which is Exhibit 'AW2/2'. He has brought the attendance register for the month of December 2015 i.e. Exhibit 'AW2/3'. Their department employed 9 employees through contractor M/ Sherwal Enterprises, SCO 68, First Floor, Sector 40-C, Chandigarh. The department is not paying salary to the employee mentioned in Exhibit 'AW2/3' and the department is making payment to the contractor. Prior to this the department used to pay salary directly into the account of workman in the present case.

13. On other hand, the management examined MW1 Dalbir Singh - Senior Assistant, Department of Information Technology, Chandigarh Administration, who vide his affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement and supported his oral version with documents Exhibit 'M1' to Exhibit 'M4' and Mark 'A'.

14. From the oral as well as documentary evidence led by the parties, it comes out that there is no dispute between the parties with regard to the facts that in the year 2012-13 the workman was hired as Housekeeping Staff against non-sanctioned posts by the employer/management directly on daily wages and was deployed at Entrepreneur Development Centre (EDC) Building at Rajiv Gandhi Chandigarh Technology Park, Chandigarh and no appointment letter was ever issued to the workman. In this regard, the workman / AW1 in his cross-examination stated that he was appointed on dated 06.10.2012.

No appointment letter was ever issued to him by the management. Admittedly, the attendance of the workman was marked in the muster roll. In this regard MW1 in his cross-examination admitted as correct that the attendance of the workman was marked in muster roll Exhibit 'AW2/1'. Undisputedly, the workman worked as Housekeeping with the management from 06.10.2012 to 30.11.2015. The workman has pleaded that on 01.12.2015 he was informed by the department that his services along with six other workmen are no more required in their department and they have to join its under the contractor if he wants to work with the department. The management in the written statement pleaded that the workman did not register with the approved contractor for re-employment and the contractor appointed his own staff in the EDC building w.e.f. 01.12.2015. The aforesaid pleas taken by the parties in their respective claim statement and written statement endorsed the fact that the workman worked up to 30.11.2015 with the management.

15. Learned representative for the workman referred cross-examination of MW1 Dalbir Singh wherein he has admitted as correct that the workman was employee of the department of Information Technology on daily wage basis for its EDC Building at IT Park. MW1 admitted as correct that there is no complaint against the workman in their record regarding he has not abided by the directions of his superiors. MW1 in his cross-examination further stated that no written notice was given to the workman. MW1 denied the suggestion as wrong that the department has wrongly and illegally terminated the services of the workman without following the provisions of the ID Act. MW1 in his cross-examination stated that on 1st December, 2015 the department has engaged the services of Sherwal Enterprises for rendering the services in the EDC Building. At present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join. By making reference to the aforesaid version of MW1 learned representative for the workman contended that the services of the workman are terminated in view of letter dated 07.11.2014 / Exhibit 'M2'. The management has wrongly interpreted the contents of Exhibit 'M2' according to which all the Group 'D' posts as and when fallen vacant are to be filled up through outsourcing after following proper procedure. In the present case when the letter dated 07.11.2014 / Exhibit 'M2' was issued, at that time the workman was already working against the post, therefore, the said post could not be considered as vacant. But the management / department after removing the workman from the post, deployed another employee on the same post throughout source contractor which show that there is still requirement of the post from which the workman has been removed. Moreover, during his tenure the workman served the management / department in a satisfactory manner and there was no complaint against his conduct.

16. On the other hand, learned Law Officer for the management has contended that the services of the workman were not terminated. In view of policy of the Government formulated vide letter dated 07.11.2014 / Exhibit 'M2', there was requirement to fill all the Group 'D' post as and when fallen vacant through outsourcing after following proper procedure and in pursuance of the said letter Exhibit 'M2', the workman was given option to join through outsource contractor to which the workman refused and thereafter w.e.f. 01.12.2015 the contractual employees were deployed against the vacant post through outsource contractor M/s Sherwal Enterprises.

17. To my opinion for better appreciation of policy of the Government, it would be apposite to reproduce the contents of letter endorsement No.27/4/9-UTFII(12)-2014/9422 dated 07.11.2014 issued from the Finance Secretary, Chandigarh Administration to All Heads of Departments in Chandigarh Administration relating to the subject of filling up of Group 'D' posts through outsourcing - Reg. / Exhibit 'M2'

"I am directed to refer you on the subject noted above and to state that keeping in view the Punjab Government instructions issued vide No.15/74/2010-4PP3/391 dated 18.03.2021 and recommendations of 6th Central Pay Commission report, it has been decided by this Administration that all the Group 'D' posts, as when fallen vacant, are filled up through outsourcing after following proper procedure."

18. In the present case, the workman has failed to controvert the fact that he was working as daily wager Housekeeping against non-sanctioned vacant post with the respondent-management. By virtue of the instructions issued vide letter Exhibit 'M2' it was incumbent upon the department management to deploy an outsource employee against the said post instead of a daily wage workman. Before deploying an outsource employee against the said post, the department / management provided fair opportunity to the workman to apply through the contractor if he willing to continue to work on the said post but it is the workman who refused to accept the offer. In this regard the workman / AW1 in his cross-examination admitted as correct that the management offered him to join through contractor before he left from the management. The workman own witness AW2 Subhash Chander in his cross-examination admitted as correct that they had offered to the workman to join through outsource agency but the workman refused to work under the contractor. MW1 in his cross-examination stated that at present there are 7 Housekeeping, 2 Malies, 7 Security Guards at EDC Building engaged through outsourcing agency. The said employees were working on the vacant posts as the earlier employee refused to join.

19. The plea taken by the workman in his cross-examination that he do not know whether Chandigarh Administration had framed policy to outsource for Group 'D' posts is devoid of merits because the fact being not specifically denied is deemed to be admitted under the law. Moreover, the letter dated 23.11.2015 /Exhibit 'W2' is addressed from the workmen including the name of the workman Rajinder at serial No.3 to SIT Deluxe Building, Chandigarh and as per the contents of said letters the workman requested that according to new Government policy from Head of Department of EDC Building, they are being shifted under private contractor but they do not want to work under the private contractor and further requested not to shift them and keep them treating employees of EDC Building as previously and they mentioned the three reasons for which they are not willing to work under the private contractor. The said three reasons are reproduced as below:-

- "1) If we are working under private contractor then they can terminate us any time.
- 2) DC rates are also decrease by them.
- 3) We are not receiving the salary on time."

From the above mentioned contents of Exhibit 'W2' it is duly proved on record that the workman is very much in knowledge of the new Government policy / instructions issued through letter dated 07.11.2014 and this fact falsifies the version of AW1 that he has no knowledge whether Chandigarh Administration had framed policy to outsource for Group 'D' posts. The contents of letter Exhibit 'W2' further supports the plea of the management that the workman was offered to work through the contractor to which the workman refused.

20. In view of the reasons recorded above, the termination of the workman is not illegal in any manner rather the workman himself left the job by refusing to accept the offer to join through outsource agency / contractor as per instructions of the Government dated 07.11.2014 / Exhibit 'M2'.

21. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

22. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 30th November, 2022.

(Sd.). . . ,

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 8th February, 2023

No. 13/1/9937-HII(2)-2023/1754.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 36/2017 dated 12.12.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T., Chandigarh between :

ARUN SOBTI, AGED 33 YEARS, S/O SHRI SATISH KUMAR SOBTI, R/O HOUSE NO. 47, TYPE-II, PANJAB UNIVERSITY CAMPUS, SECTOR 25, U.T. CHANDIGARH (Workman)

AND

1. M/S INDOCO REMEDIES LIMITED, HEAD OFFICE INDOCO HOUSE, 166 CST ROAD, POST BOX NO. 9799, SANTA CRUZE, EAST MUMBAI - 400098.
2. M/S INDOCO REMEDIES LIMITED, HEAD OFFICE INDOCO HOUSE, 166 CST ROAD, POST BOX NO. 9799, SANTA CRUZE, EAST MUMBAI - 400098 THROUGH ITS MANAGING DIRECTOR.
3. THE AREA BUSINESS MANAGER, WARREN ACE DIV., M/S INDOCO REMEDIES LTD., C/O H.NO. 2122/1, SECTOR 37-C, CHANDIGARH (Management)

AWARD

1. Arun Sobti, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman joined the services of the management w.e.f. 17.10.2013 and worked continuously without any break or interruption in the services till 09.10.2015. The workman was issued appointment letter dated 25.10.2013. The probation period of 8 months was mentioned in the appointment letter. After completion of 8 months Shri Shiv Kumar Sharma - Ex-DBM recommended the case for confirmation on 27.07.2014. The workman was appointed as Trainee Medical Representative of the company and after completion of probation period he was working as TMR. The work place of the workman was at Union Territory of Chandigarh. He was working under the monitoring and guidance of Area Business Manager Shri Sanjeev Kumar Pandey. The workman performed his duties up to the entire satisfaction of his superior and employer and he was never issued any show cause notice, warning, charge sheet or any other memo to question his work & conduct up to 22.08.2014. After some time the Area Business Manager Mr. Sanjay Pandey; who was very clever, greedy person and habitual of blackmailing the people for his personal gains; started forcing the workman for some undue personal favours for him. As the workman refused to do undue favours for him, he got annoyed and started harming the interest of the company and was not guiding Medical Representative's team proper and was misleading the workman and other staff for his own benefits. A complaint was pending against him for committing irregularities against the company and to save his skin from those irregularities, he wrote some falsely fabricated complaints against the workman which led to issuance of show cause notice dated 22.08.2014 by the employer-management. In the show cause notice it was alleged that the workman did not visit Dr. Anu Gupta on 04.07.2014, 14.07.2014, 29.07.2014 and the reason for the above observation was given as shifting of said Doctor from Chandigarh to Kharar on 01.07.2014. It was further alleged in the show cause notice that the workman did not visit Dr. Shewta Thakur on 04.07.2017, did not visit Dr. Sanjeev Mahajan and Tamanna Mahajan on 04.07.2014, 14.07.2014, 29.07.2014 for the reasons that the Doctors have confirmed that no MR visited their clinic in July 2014. Apart from the above it was also alleged that the workman made false reporting of his visit to Doctor Imtiaz Leon on 07.07.2014, 21.07.2014; Dr. Praganesh Kumar on 18.07.2014, 26.07.2014; Dr. Parveen Kumar on 10.07.2014,

18.07.2014; Dr. Surinder Sewda on 21.07.2014; Dr. Pranav Thakur on 18.07.2014, 26.07.2014 and Dr. Keyur Mehta on 21.07.2014 on the observation that the above said Doctors of PGI have completed their course before July 2014. The workman submitted explanation dated 30.08.2014 to the show cause notice and gave the necessary certificates from the concerned Doctors regarding his true reporting and also explained that the completion of course did not mean that the concerned Doctors immediately left the PGI premises. They were available in the PGI premises in order to complete various formalities before leaving the premises of PGIMER. Besides, the above proper, due and just explanation the employer / management with mala fide intentions rejected the explanation of the workman to the show cause notice and issued a charge sheet dated 11.09.2014. The charge sheet served upon the workman was incomplete as per law as it was without copies of complaints against the workman. There was no copy of preliminary inquiry against the workman and no copy of certified standing orders of the company. The workman submitted explanation dated 29.10.2014 to the charge sheet dated 11.09.2014. The employer/management failed to take note of the working results of the workman, they also ignored the explanation dated 29.10.2014 of the workman. The employer/management has appointed Shri V. N. Malya as Inquiry Officer on 11.09.2014 i.e. the day of issuing charge sheet without waiting for the explanation of the workman to hold and domestic inquiry against the workman on the basis of the charge sheet served upon the workman. The workman was informed about the appointment of Inquiry Officer and that of place of his inquiry proceedings at Mumbai. The workman wrote an application dated 22.09.2014 to the employer/management that his place / area of work is at Union Territory Chandigarh, the allegations of misconduct were alleged to have taken place at Chandigarh, the inquiry proceedings against him must be conducted at Chandigarh. The workman explained that he is getting very low salary / wages and with this small earning he is unable to travel to Mumbai again and again. Moreover, he told the management that there is lot of problem for travelling by trains as the availability of seat in the trains is very difficult. On the other hand, the workman will have to waste at least 4-5 days for one day inquiry proceedings while travelling from Chandigarh to Mumbai and back. But the employer/management did not entertain and consider the application of the workman. The employer/management fixed the travelling expenses to the tune of ₹ 3,000/- for one time Chandigarh to Mumbai and back. But the said amount was not properly paid to the workman. The Inquiry Officer Shri V. N. Malya held inquiry proceedings on 16.10.2014, 14.11.2014, 05.12.2014, 22.01.2015, 24.02.2015, 24.03.2015, 29.04.2015, 01.06.2015, 29.06.2015 and 29.07.2015. Shri Gopal Naikar, a Senior Manager Marketing Services was Presenting Officer of the employer/management. The applications submitted to the Inquiry Officer were not taken on the inquiry file. No complaint came to the inquiry proceedings to prove his complaints and no Doctor of Chandigarh was there to prove his statement. The workman told the Inquiry Officer that the statements in the names of the Doctors of Chandigarh are forged and not true. The Inquiry Officer was highly prejudice and biased person. He conducted the inquiry proceedings in a highly arbitrary manner and did not listen to him. He was employed, paid by the employer/management and was acting on the instructions of the employer/management. Neither written applications nor the statements of the workman recorded during the inquiry proceedings. The workman was also threatened by the Inquiry Officer and the Presenting Officer saying that "*it is Mumbai not Chandigarh, do you want to return safe and sound*". The Inquiry Officer also took the signatures of the workman on some blank papers under threat and undue force. The workman was unable to resist there as he was terrorized. In the circumstances of terror created in Mumbai during his inquiry proceedings, it was not possible for the workman to lead his defence evidence. Although the Inquiry Officer promised to provide the assistance of a co-worker and the workman asked the Inquiry Officer to allow the assistance of Shri Amrit Pal Singh of Bathinda (Head Quarters) of the company but the Inquiry Officer did not allow the same and refused to pay the expenses of journey from Chandigarh to Mumbai and back. As such the workman could not take the help of some co-worker to assist him as the expenses of the co-worker were not paid by the employer/management and the workman was not able to bear the expenses of his co-worker. The Presenting Officer neither produced the complainant in the inquiry to prove the charges / complaint levelled against the workman nor any Doctor named in the complaint was examined to ascertain the genuineness of the reporting. In the inquiry only one witness i.e. MW1 Shri Sanjay Suri, Sales Manager who was neither associated with the workman nor worked with the workman during the relevant time and he met the workman for the first time on 12.09.2014 and was totally

unaware of the charges levelled against the workman. In his evidence, he did not prove anything against the workman and has only placed the documents without summoning the concerned persons, who gave the complaint against the workman. The testimony of MW1 has to be totally ignored being hearsay evidence and not being primary evidence and no reason for not calling the persons, who would have cleared the clouds with the reasons best known to the management. The findings arrived at by the Inquiry Officer is unfounded and based on the facts as the Presenting Officer has not produced any material witnesses, who could have thrown light to clear cloud on the allegations levelled against the workman nor they have tried to do justice with the workman nor they have given him the opportunity to defend him, nor given the workman any assistance to face the inquiry which was initiated by the employer/management and only an expert assistance could not done justice in the inquiry. The workman has received the inquiry report, copy of show cause notice dated 17.08.2015 and the same was received by the workman on 29.08.2015. The workman replied the same on dated 07.09.2015. The workman was member of Punjab and Chandigarh Medical & Sales Representatives' Union (PCMSRU), which is affiliated with Federation of Medical Representatives of India (FMRAI). The FMRAI had submitted a general charter of demands to the employer/management. The said general charter of demands was pending. During the pendency of said charter of the demands, the employer/management terminated the services of the workman. At the time of termination the workman was drawing wages @ ₹10,542/- per month. The workman was enrolled under the Employees' Provident Fund (EPF) scheme. His EPF was regularly deducted from his wages / salary. The workman lastly raised the demand notice dated 19.12.2015 for initiating the conciliation proceedings. The Assistant Labour Commissioner-cum-Conciliation Officer summoned the management and initiated the conciliation proceedings. On 28.06.2016 the conciliation proceedings were closed evidence Memo No.1858 dated 29.06.2016. The termination of the services of the workman is illegal, unjustified, against the principles of natural justice, highly arbitrary and patently mala fide on the following grounds :—

- i) That the place of inquiry was fixed at Mumbai where as the work place of the workman was U.T. Chandigarh. The place of inquiry was not changed on the request of the workman. The place of inquiry was not suitable to the workman. The place of inquiry was fixed by the employer/management to terrorise the workman and to vitiate the inquiry proceedings and to create such an atmosphere where there was not a iota of chance for the workman to defend himself. The inquiry was absolutely held in an unfair manner.
- ii) At the time of his termination from the services vide order dated 09.10.2015, the General Charter of Demands submitted by FMRAI was pending, as such the termination of the workman was done in violation of the provisions of labour laws.
- iii) The workman was not given an opportunity to defend himself. No assistance of an efficient co-worker was provided to the workman to enable him to defend himself.
- iv) The Inquiry Officer was appointed by the employer/management and he was paid by them to work on their instructions. He was prejudice and biased person, who neither took on record the applications and the documents submitted by the workman nor his statement were recorded on the inquiry file. The inquiry proceedings were one sided only.
- v) The inquiry proceedings were conducted in fear and terrorised atmosphere created by the employer. The workman was terrorised and his signatures were obtained by force.

Prayer is made that the termination of the workman is illegal, unjustified and against the principles of natural justice, highly arbitrary. The workman may be reinstated with full back wages and all other service benefits applicable from time to time.

2. On notice, management No.1 to 3 contested the claim statement by filing joint written statement on 21.02.2018 wherein it is stated that the workman was employed with the management as a Medical Representative (MR). He was a Sales Promotion Employee as defined under the Sales Promotion Employees (Condition of Service) Act, 1976. The MR during the course of his duties is required to fill in the Daily Call

Reports. The said reports are of great significance to the management as the work of the MR in the field as well as their day to day working is not directly supervised by the management. The said Daily Call Reports provide the management with valuable information about the places visited and customers contacted and nature of other duties carried out by the MRs. The workman was issued a show cause notice dated 22.08.2014 on the ground that he had mentioned in his daily reports for having met certain Doctors which according to the management was totally incorrect. The particulars of the dates of the Daily Reports as well the names of the Doctors whom the workman claimed that he has met have been stated in the show cause notice. The workman was called upon to show cause within 72 hours of the show cause notice as to why disciplinary action should not be taken against him, failing which the management would proceed further in the matter. The workman was issued a charge sheet dated 11.09.2014 wherein a reference was made to the show cause notice issued to the workman as well as the written reply submitted by the workman. The workman was informed about the charges levelled against him amounting to following misconduct :—

- i) False reporting, dishonesty in connection with employer business.
- ii) Habitual neglect of work or gross or habitual negligence.
- iii) Commission of any act subversive discipline or good behaviour on the establishment.
- iv) Habitual breach of any standing order or any law applicable to the establishment or any rules made thereunder.

It is further stated that the workman was informed that a domestic inquiry would be instituted to enquire into the charges levelled against the workman in the said charge sheet and that the inquiry would be held on 16.10.2014 at 10:30 A.M. in the premises of the management and he was required to remain present there. The workman was also informed that he would be permitted to be defended by a co-employee of his choice and would be permitted to cross-examine the management's witnesses in support of the charges and also to examine witnesses on his behalf. The workman was also issued a supplementary charges sheet dated 22.01.2015 for claiming that he has met certain Doctors on certain dates as specified in the charge sheet which reporting was totally false and the workman had not met the said Doctors. The workman submitted his reply dated 22.02.2015 to the supplementary charge sheet dated 22.01.2015. The inquiry was conducted in consonance with the principles of natural justice. The inquiry proceedings commenced on 16.10.2014 and were held on several dates thereafter and the proceedings were finally concluded on 29.07.2015. The entire procedure of the inquiry was explained by the Inquiry Officer on 14.11.2014. The proceedings which were held on several dates, copies of the same were handed to the workman and whatever documents were filed by the management in the inquiry, copies of the same were also handed over to the workman. Various documents were taken on record on 14.11.2014, 05.12.2014 and 22.01.2015. On 29.04.2015 the evidence of management's first witness Mr. Ajay Suri was recorded and the inquiry was adjourned for his cross-examination to 01.06.2015. On 01.06.2015 the workman asked for adjournment to enable him to cross-examine the MW. The Inquiry Officer with a view to give a fair and proper opportunity to the workman adjourned the inquiry to 29.06.2015. On 29.06.2015 the workman cross-examined the management's witness and thereafter the management's representative closed the evidence of the management and the inquiry was fixed for evidence of the management and accordingly adjourned to 29.07.2015. On 29.07.2015 the workman participated in the inquiry and stated that he had no written statement to be filed and the inquiry proceedings were conducted on the said date. The Inquiry Officer submitted his report and findings dated 14.08.2015 inter alia holding the workman guilty of charges levelled against him in the charge sheet dated 11.09.2014 and supplementary charge sheet dated 22.01.2015. In accordance with the principles of natural justice, a copy of report and findings of the Inquiry Officer was sent to the workman vide management's letter dated 17.08.2015 wherein the workman was called upon to submit his reply within 10 days in respect to said findings. The workman sent an email communication dated 07.09.2015 stating that he would submit his reply by registered letter. In the meanwhile the workman filed a Suit before the Court of Civil Judge, Senior Division, Chandigarh. The management resisted the said suit by filing its written statement / objections. The said suit was dismissed by the Hon'ble Court on the ground that the Civil Court has no jurisdiction to entertain the claim made by the workman. Disciplinary authority after going through the entire

record and proceedings of the inquiry as well as findings of the Inquiry Officer, was satisfied with the charges levelled against the workman which were grave and serious were proved as a result of the findings of the Inquiry Officer. Vide letter dated 09.10.2015 the workman was dismissed from the service of the management. From the aforesaid facts it is evident that action of dismissal taken by the management is fair, proper and in consonance with the principles of natural justice. A full and proper opportunity was given to the workman to enable him to participate in the inquiry. Furthermore the findings of the Inquiry Officer are based on correct appreciation of evidence adduced before the Inquiry Officer in the inquiry. Upon conclusion of the inquiry, in consonance of the principles of natural justice, a legal action of dismissal of the workman was taken. It is further stated that the situs of employment of the workman was at Chandigarh and the workman was reporting to his Area Business Manager Shri Sanjay Kumar Pandey. Rest of the averments of claim statement are denied as wrong. The workman has joined the company Micro Labs Limited and he is currently working at place Karnal. Prayer is made that the claim statement may be rejected.

3. The workman filed rejoinder to the written statement, wherein the contents of the written statement except admitted facts of the claim statement are denied as wrong and averments of claim statement are reiterated.

4. From the pleadings of the parties, following issues were framed vide order dated 24.05.2018 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. In evidence the workman Arun Sobti examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents i.e. copies of demand notice dated 19.12.2015 vide Exhibit 'W1' and copy of failure report bearing Memo No.1858 dated 29.06.2016 of Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh vide Exhibit 'W2'. On 07.01.2021 learned representative for the workman closed the evidence on behalf of the workman.

6. On the other hand, the managements examined MW1 Bhupinder Singh Phul - Divisional Business Manager, Indoco Remedies Limited, who tendered his affidavit Exhibit 'MW1/A'. On 30.01.2022 learned representative for the management tendered into evidence attested copy of the order dated 12.07.2016 passed by the Court Shri Ashish Thathai in Civil Court, filing No.4123/2015 titled as Arun Sobti Versus M/s Indoco Remedies Limited & Others vide Exhibit 'M1' and closed the evidence on behalf of the management.

7. The application dated 25.02.2022 moved by the management seeking to lead additional evidence was allowed vide order dated 13.09.2022. In additional evidence management re-examined MW1 Bhupinder Singh Phul, who tendered into evidence the copy of the inquiry report dated 14.08.2015 relating to the inquiry held by Shri V. N. Malya - Inquiry Officer regarding charge sheet dated 11.09.2014 and supplementary charge sheet dated 22.01.2015 vide Exhibit 'M2'.

8. The workman was provided opportunity to lead evidence in rebuttal to additional evidence of the management. The workman did not lead any evidence in rebuttal. On 12.12.2022 learned representative for the workman closed rebuttal evidence.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise findings are as below :—

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Arun Sobti examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto and supported his oral version with documents Exhibit 'W1' and Exhibit 'W2'.

12. On the other hand, the managements examined MW1 Bhupinder Singh Phull - Divisional Business Manager, Indoco Remedies Limited, who vide his affidavit Exhibit 'MW1/A' deposed the contents of written statement in toto and supported his oral version with documents Exhibit 'M1' and 'M2'.

13. From the oral as well as documentary evidence of the parties it comes out that undisputedly vide appointment letter dated 25.10.2013 workman was appointed as a Trainee Medical Representative w.e.f. 17.10.2013 in the organisation of the management No.1 to 3, having head quarter at Chandigarh. As per the appointment letter, his appointment as trainee was for a period of 8 months. The workman remained in service of management No.1 to 3 from 17.10.2013 to 09.10.2015 i.e. for a period of about 1 year 11 months and 8 days. The workman completed his probation period of eight months from 17.06.2014.

14. The services of the workman were terminated vide order dated 09.10.2015 after conducting a domestic inquiry. The contention of learned representative for the workman that the place of inquiry was fixed at Mumbai and it was not changed despite request of the workman is devoid of merits because admittedly the workman joined the inquiry proceedings at Mumbai and there is no document on record showing that the workman ever made any request to the managements for shifting his inquiry from Mumbai to Chandigarh. Thus, no prejudice is caused to the interest of the workman for conducting inquiry proceedings at Mumbai. The contention of the learned representative for the workman that in the inquiry proceedings the workman was not given an opportunity to conduct cross-examination of the witnesses of the management and to defend himself and no assistance of an efficient co-worker was provided to him and further that the Inquiry Officer did not take on record the applications and the documents submitted by the workman and his statement was not recorded, is devoid of merits because from the detailed inquiry report Exhibit 'M2' it is evident that the charge sheet dated 11.09.2014 and supplementary charge sheet dated 22.01.2015 were issued to the workman to which the workman submitted reply. In cross-examination of AW1 Arun Sobti, learned representative for the management had put question to him that did he reply the show cause notice and AW1 replied the same in affirmative by stating 'Yes'. It is not the plea of the workman that he was not provided an assistance of a co-workman but his plea is that the assistance of an efficient co-worker was not provided and the said plea is without any foundation. As per para 13 of inquiry report Exhibit 'M2' the witnesses examined by the management representative (MR) were cross-examined by the workman who is referred as CSE in the inquiry report. The relevant portion / para 13 of inquiry report Exhibit 'M2' is reproduced as below :—

"The witnesses examined by the MR to substantiate the allegations and charges levelled against the CSE in both the charge sheet is Mr. Ajay Suri, Sales Manager who was cross-examined by the CSE."

The careful scrutiny of the inquiry report Exhibit 'M2' would prove that despite grant of an opportunity the workman (referred as CSE in the inquiry report) did not lead any evidence on his behalf. Although the documents brought on record by the workman were considered by the Inquiry Officer. The relevant portion / para 17 of inquiry report Exhibit 'M2' is reproduced as below :—

"CSE did not lead any evidence on his behalf. During the course of enquiry proceedings CSE has filed some documents. As these documents are not proved before me by CSE by identifying them during the enquiry before me and offering himself for cross-examination by the MR on those documents the said documents could be ignored all together by me. Still I have examined whether these documents filed by the CSE help CSE."

15. The contention raised by learned representative for the workman that the inquiry proceedings were conducted in fear and terrorised atmosphere finds no corroboration. MW1 Bhupinder Singh Phull in his cross-examination denied the suggestion as wrong that the Inquiry Officer and the Presenting Officer threatened the workman of dire consequences. The suggestion put to a witness, which is denied as wrong is no evidence unless proved otherwise. In the present case, the workman did not lead any evidence to corroborate his version that he was threatened with dire consequences by the Inquiry Officer and the Presenting Officer. No specific date, time or place is mentioned where the alleged threat was given to the workman.

16. Learned representative for the workman argued that the termination order is not sustainable as the management did not seek approval under Section 33-2(b) of the ID Act. The workman has pleaded that he was member of Punjab and Chandigarh Medical Sales Representative Union (PCMSRU) which is affiliated with the Federation of Medical Representative of India (FMRAI). The FMRAI had submitted a general charter of demands to the employer/management which is pending and during the pendency of said charter of demands the employer/management terminated the services of the workman. On the other hand, management No.1 to 3 in their joint written statements have taken the plea that the subject matter of charter of demands was pending before the Industrial Tribunal at Mumbai. The management had filed an approval application under Section 33(2)(b) of the ID Act and the matter is subjudice. Under the law, the fact which is not controverted is deemed to be admitted. In the present case, the workman during cross-examination MW1 did not controvert the plea of the management that application under Section 33(2)(b) of the ID Act is subjudice. The cause of action will accrue to the workman only if the application of the management under Section 33(2)(b) of the ID Act is approved by the competent authority.

17. Above all the workman failed to point out any procedural defect in holding domestic inquiry. Moreover, the workman has concealed the fact that prior to this case, the workman had filed a civil suit for seeking permanent injunction, mandatory injunction and declaration against the management No.1 to 3 which was dismissed as withdrawn vide order dated 12.07.2016 / Exhibit 'M1'.

18. In view of the reasons recorded above, the claim of the workman is pre-mature as the application moved by the management No.1 to 3 under Section 33(2)(b) of the ID Act is pending before Industrial Tribunal at Mumbai.

19. Accordingly this issue is decided against the workman and in favour of the management No.1 to 3

Relief :

20. In view of the foregoing discussion on issue above, the present industrial dispute is declined being pre-mature in nature. Appropriate Government be informed. File be consigned to the record room.

The 12th December, 2022.

(Sd.). . .,

(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
SOCIAL WELFARE WOMEN & CHILD DEVELOPMENT DEPARTMENT

Notification

The 10th February, 2023

No. SW3/SWD/2023/1060.—The Administrator, Union Territory, Chandigarh, is hereby pleased to formulate the Scheme "SHAGUN"- called for providing financial assistance for marriage of women belonging to low income group families of U.T. Chandigarh"

1. Aim : The aim of the scheme is to provide financial assistance for meeting expenses borne towards solemnization of marriage of women belonging to low income group families of Union Territory, Chandigarh. The scheme also aims to provide financial assistance for marriage of orphan & destitute girls and remarriage of widows / destitute women as one time assistance.

2. Eligibility Criteria :

- (a) The applicant should be a resident of U.T. Chandigarh continuously for the last three years from the date of application submission*.

*(*This condition of eligibility criteria does not apply to Girls residing in Child Care Institution, After Care Home & Nari Niketan. However they should have continuously stay of three years in home.)*

- (b) The woman should be of 18 years or above age on the date of marriage. Only one time financial assistance will be provided to woman/applicant.
- (c) The financial assistance can be availed only one time i.e for one marriage i.e. either first marriage or re-marriage of herself or for marriage/remarriage of daughters (upto 2 daughters only)
- (d) In case of re-marriage, the applicant shall submit the death certificate of her spouse or the copy of order passed by the court of competent jurisdiction where by the husband of the applicant/women has been declared dead (in case the husband is missing or unheard of last seven years) or decree of divorce.
- (e) This scheme is applicable for females only. She can avail financial assistance either for her own marriage/remarriage or for the marriage/remarriage of her daughter (Upto two daughters) as per following categories :—

- i. Daughters of pension holder widows / pension holder destitute women or her re-marriage :** Women who themselves are the beneficiaries of financial assistance schemes of Department of Social Welfare will be eligible for taking benefit under the present scheme in case of their remarriage or in case of marriage/remarriage of their daughters (up to two daughters only). Such an applicant is required to submit Sanction Order/ PLA Number document issued by Department of Social Welfare to the widows/ destitute pensioner.
- ii. Disability Pension Holder Women :** Women who themselves are beneficiaries of financial assistance under Disability Pension scheme of the Department of Social Welfare will be eligible for taking benefit under the present scheme in case of their marriage or remarriage or in case of marriage/remarriage of their daughters (up to two daughters only) and are required to submit Sanction Order/ PLA Number document issued by Department of Social Welfare to the female Persons with Disabilities (PwD) pensioner.
- iii. Girls residing in Child Care Institution, After Care Home & Nari Niketan (Sector 26):** Women/Girls who have been the resident of Child Care Institutions i.e. Ashiana for Girls (Sector 15) and After Care Home & Nari Niketan (Sector 26) for at least 03 years continuously will be eligible under the scheme. The applicant shall be required to submit the residence certificate issued by the concerned authority showing her continuous residence at the concerned Institution i.e. Ashiana for Girls (Sector 15) or After Care Home & Nari Niketan (Sector 26).

- iv. **Daughters/ women of Antodaya Households :** Daughters/women covered under Antodaya Households Scheme with the Department of Food & Supplies, Chandigarh will be eligible under the present scheme and shall be required to submit Antodaya Household certificate/card issued by Department of Food & Supplies and Consumer Affairs & Legal Metrology, U.T, Chandigarh.
- v. **Registered Female Street Vendors / Daughters of registered Street Vendors :** Female Street Vendors and/or their Daughters who are registered as Street Vendors with Municipal Corporation U.T. Chandigarh will be eligible under the scheme and are required to submit Registration certificate issued to the Registered Street Vendors by Municipal Corporation Chandigarh.
- vi. **Daughters of Outsourced Safai Karamcharis / Sweepers :** Outsourced Safai Karamcharis/ sweepers working presently with Municipal Corporation, Boards and Corporations of UT Chandigarh or any Departments of Chandigarh Administration will be eligible under the scheme to avail benefit for marriage/remarriage of their daughters (upto 2 daughters) and required to submit Certificate to be issued by the concerned department where the applicant is an Outsourced Safai Karamchari/ Sweeper working with either Municipal Corporation or Boards or Corporations of U.T. Chandigarh or any Department of Chandigarh Administration.

- (f) The assistance shall not be available to an applicant for marriage of more than two daughters in a family.

3. Financial Assistance :

- (a) Financial Assistance of Rs. 31,000/- will be provided.
- (b) First installment amounting to Rs. 11000/- will be paid to beneficiary on or before celebration of the marriage and Rs. 20000/- will be paid within 6 months after submission of the marriage Registration certificate by the applicant. No balance amount will be paid if marriage registration certificate is submitted after 6 months.
- (c) The financial assistance under this scheme will be given on first come first serve basis, if found eligible depending upon budget availability.

4. Procedure for Application :

- (a) An applicant can fill the application in the form as prescribed by the Department of Social Welfare and as available on the website of the department i.e. <https://www.chdsw.gov.in/> as well as by visiting the office of the department i.e. Additional Town Hall Building, 3rd Floor, Sector-17 C, Chandigarh. The duly filled application form must be submitted to the office of Director Social Welfare, Women & Child Development, Chandigarh Administration for sanction of financial assistance under SHAGUN scheme.
- (b) Department shall disburse first instalment within 15 days of receipt of application before marriage.
- (c) In case the application is received after marriage, along with marriage registration certificate, but within 6 months from the date of marriage, entire financial assistance will be released by department within 15 working days.

5. Sanctioning Authority :

Director, Social Welfare, Chandigarh Administration shall be the sanctioning authority and shall pass orders in each case on the basis of the report of the concerned Department/Board/Corporation etc. of U.T., Chandigarh for this purpose.

6. Mode of Payment :

The Director, Social Welfare, Chandigarh Administration will be the Drawing and Disbursing Officer. The assistance will be given in the shape of Aadhaar based payment transferred to beneficiary's bank account.

7. Withdrawal :

The benefit sanctioned under the scheme shall be withdrawn by the Director, Social Welfare, if the marriage is not solemnized within one month from the date of receipt of assistance, failing which the amount will be recovered as arrears of the Land Revenue.

8. Claim :

The claim of incentive for the marriage of women who belongs to low income family in UT Chandigarh will not be claimed as a matter of right.

(Sd.). . .,

Secretary, Social Welfare,
Women & Child Development,
Chandigarh Administration.

CHANGE OF NAME

I, Gita Darlami, W/o Gomu Bahadur, R/o 1072, Sector 27-B, Chandigarh, have changed my name to Maya Thapa.

[146-1]

I, Inder Jeet Singh, S/o H.L. Bhatti, R/o 2324-A, Sector 29-C, Chandigarh, have changed my name from Inder Jeet Singh to Inder Jeet Singh Bhatti.

[147-1]

I, Sandip Kumar, S/o Mange Ram, House 358, Phase-1, Ramdarbar, Chandigarh, have changed my name to Sandeep.

[148-1]

I, Monica, W/o Sh. Rajiv Kohli, R/o # 1581, Sector 22-B, Chandigarh, have changed my name from Monica to Monika Kohli.

[149-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."